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**OF THE**  
**SUPREME COURT OF NEW JERSEY**

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September 24, 2024

Heather Joy Baker, Clerk  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, New Jersey 08625-0962

**Re: In the Matter of Michael Anthony Policastro**  
Docket No. DRB 24-159  
District Docket No. XIV-2019-0208E

Dear Ms. Baker:

The Disciplinary Review Board has reviewed the motion for discipline by consent (censure or such lesser discipline as the Board deems appropriate) filed by the Office of Attorney Ethics (the OAE) in the above matter, pursuant to R. 1:20-10(b). Following a review of the record, the Board granted the motion and determined to impose a reprimand for respondent's violation of RPC 4.2 (engaging in improper communication with a person represented by counsel).

Specifically, as set forth in the stipulation, in 2018, respondent represented a criminal defendant in connection with charges of conspiracy to commit murder and attempted murder. The co-defendant in that matter (Sandya Reddy) was represented by separate counsel. Despite knowing that Reddy was represented by counsel, in November 2018, respondent met with her at the Middlesex County Correction Center, two months after having attended a meeting with her attorneys and the prosecutor, wherein he learned that Reddy intended to plead guilty and testify against his client. Prior to visiting Reddy,

respondent admittedly failed to contact her attorneys or to request permission to visit and speak with her. Further, he admittedly asked the corrections officers to produce Reddy for “a professional meeting” and that Reddy did not know who was there to visit her or have the opportunity to decline the meeting.

Respondent claimed that Reddy initially had called him, however, he made no effort to report this, or his contact with Reddy, to her attorneys. Further, although respondent asserted that he had told Reddy that he could not talk to her about the facts or issues of the criminal case, he nonetheless continued the conversation after Reddy brought up her case and expressed dissatisfaction with her counsel. Respondent admittedly provided Reddy with his business card and agreed to contact new counsel on her behalf. Thereafter, respondent failed to inform Reddy’s attorneys about his conversation with their client.

Upon learning that respondent had spoken with Reddy, her attorneys filed a motion to disqualify him as counsel in the criminal matter. Before the court could rule on that motion, however, the criminal prosecution was transferred to federal court.

In April 2019, the Middlesex County Prosecutor’s Office notified the OAE that respondent had been charged with four counts of witness tampering, in violation of N.J.S.A. 2C:28-5(a)(1) and (a)(5). Respondent subsequently was indicted for witness tampering; however, those charges were dismissed in April 2022 when the Superior Court granted respondent’s motion to dismiss the indictment. The Monmouth County Prosecutor’s Office (where the matter had been transferred) declined to pursue the matter further.

Based on the foregoing facts, the parties stipulated that respondent violated RPC 4.2. Specifically, respondent admittedly violated RPC 4.2 by communicating with Reddy, his client’s co-defendant, whom he knew to be represented by counsel, without the knowledge or consent of Reddy’s attorneys, a court order, or other legal authorization.

Generally, as the OAE observed, attorneys who communicate with represented persons receive discipline ranging from an admonition to a censure, depending on the presence of additional misconduct and any aggravating and mitigating factors. See, e.g., In the Matter of Mitchell L. Mullen, DRB 14-287 (January 16, 2015) (admonition for an attorney who communicated directly with

an individual (later, an ethics grievant) about the subject of the litigation, via e-mail, on at least three occasions, when the attorney knew or should have known that the grievant was represented by counsel; the attorney also sent a notice of deposition directly to the grievant, without notifying counsel; in mitigation, the Board considered that the attorney's conduct was minor and caused no harm to the grievant; no prior discipline in his thirty-nine years at the bar); In re Clarke, 256 N.J. 589 (2024) (reprimand for an attorney who was a "longtime family friend of [a] married couple," represented the wife in a domestic violence matter and divorce matter; after meeting with the husband and his counsel, the attorney agreed to call the husband at a later date, but did not obtain his counsel's consent; the attorney admittedly discussed the pending matters with the husband and, as a result, was disqualified from representing her own client (the wife), in both matters; consequently, both matters were adjourned, thereby prejudicing the administration of justice (RPC 8.4(d)); in mitigation, the Board considered that the attorney cooperated with the OAE, entered into a stipulation, expressed remorse, submitted evidence of her "numerous community service activities," and "had no prior discipline in her twenty-four years at the bar"); In re Ibrahim, 236 N.J. 97 (2018) (censure for an attorney who attempted to resolve a domestic violence case directly with the other party, whom the attorney knew was represented by counsel; as a result, the court disqualified the attorney and adjourned the matter so that his client could obtain new counsel; in an unrelated client matter, the attorney violated RPC 1.5(b) (failing to communicate, in writing, the rate or basis of the fee); in aggravation, the Board considered the attorney's prior reprimand and lack of candor during the ethics hearing); In re Veitch, 216 N.J. 162 (2013) (censure for an attorney who communicated with his client's co-defendant, who had pleaded guilty, about the merits of the criminal case, over the written objection of the co-defendant's attorney; in mitigation, the attorney had no disciplinary history in his thirty-eight years at the bar, and the attorney's misconduct did not harm any party or the judicial system).

Here, respondent met with Reddy after meeting with her attorneys and the prosecutor. Thus, unlike the admonished attorney in Mullen, who "knew or should have known" that he was communicating with a represented party, respondent was well aware that Reddy was represented by counsel, having recently attended a meeting with them and the prosecutor to discuss the criminal case. Moreover, unlike Mullen's written contact with a represented party, respondent met with Reddy, in-person, while she was incarcerated and, thus,

unable to decline the meeting. Unlike the censured attorney in Veitch, however, respondent did not meet with Reddy over the express objection of her counsel. Nevertheless, the Board found that he did so surreptitiously, having just attended a meeting with Reddy's attorneys.

In mitigation, respondent has no formal discipline in his seventeen-year career at the bar. He also cooperated with the OAE's investigation, and entered into the present disciplinary stipulation, thereby accepting responsibility for his misconduct and conserving disciplinary resources.

In the Board's view, there are no aggravating factors.

On balance, the Board determined that a reprimand is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated July 10, 2024.
2. Stipulation of discipline by consent, dated July 15, 2024
3. Affidavit of consent, dated July 15, 2024.
4. Ethics history, dated September 24, 2024.

Very truly yours,

*/s/ Timothy M. Ellis*

Timothy M. Ellis  
Chief Counsel

TME/akg

- c: (w/out enclosures)
- Hon. Mary Catherine, A.J.S.C. (Ret.), Chair
    - Disciplinary Review Board (e-mail)
  - Johanna Barba Jones, Director
    - Office of Attorney Ethics (e-mail and interoffice mail)
  - Corsica D. Smith, Deputy Ethics Counsel
    - Office of Attorney Ethics (via e-mail and interoffice mail)
  - Michael Anthony Policastro, Respondent (via e-mail and regular mail)