DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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October 30, 2025

VIA CERTIFIED, REGULAR, AND ELECTRONIC MAIL
Melissa S. Franchio-Mingin, Esq.
c/o Mark J. Molz, Esq.
1400 Route 38 East
Hainesport, New Jersey 08036
molzlaw@aol.com

Re: **In the Matter of Melissa S. Franchio-Mingin**
Docket No. DRB 25-188
District Docket No. XIV-2020-0109E
LETTER OF ADMONITION

Dear Ms. Franchio-Mingin:

The Disciplinary Review Board (the Board) reviewed your conduct in the above matter and concluded that it was improper. Following a review of the record, the Board determined to impose an admonition for your violation of RPC 1.1(a) (engaging in gross neglect), RPC 1.3 (lacking diligence), and RPC 1.4(b) (failing to keep a client reasonably informed about the status of a matter and to comply with reasonable requests for information). However, the Board determined to dismiss the charged violation of RPC 3.2 (failing to expedite litigation).

Specifically, grievant D.C.H.[1] retained you on two occasions: first, from late August until in or around mid-December 2017; and second, from early 2018 until sometime in or after March 2021. During both periods of representation, you represented him in his efforts to vacate a final restraining order (FRO) previously entered against him on behalf of his estranged wife, A.C.H., or, in the alternative, the part of that order that concerned the couple's minor child, including a provision that prohibited him from having contact with the child.

During the first representation, you timely prepared and filed a motion to vacate (MTV) the FRO and worked closely with D.C.H. to prepare his supporting certification. On December 12, 2017, following a hearing, the court denied that MTV. Unbeknownst to you or your client, later on the same date, A.C.H. filed a complaint with the police, alleging that your client recently had violated the FRO by initiating an exchange of text messages with her. Unaware of this report, he returned to Utah, where he lived and worked.

Subsequently, in 2018, D.C.H. retained you again, for purposes that came to include both attempting to vacate the FRO a second time and addressing his alleged violation of the FRO, along with a related bench warrant issued on April 3, 2018. Throughout that year, changes in your client's and A.C.H.'s circumstances required that you adapt your approach to the second filing and obtain records from out-of-state sources. Most notably, A.C.H. was incarcerated in Idaho and, accordingly, you sought further information on her status from authorities in that jurisdiction. You also requested relevant records from authorities in New Jersey and assisted D.C.H. as he sought to confirm the wellbeing of his child, whom A.C.H. had left in the care of friends. In a December 27, 2018 written update to D.C.H., you again addressed his concerns regarding the child's welfare and, further, stated that you still had not received the official records regarding A.C.H., which you needed to prepare the second MTV.

In the interim, according to D.C.H., in light of his outstanding bench warrant, you counseled him to avoid coming to New Jersey (where he would be arrested) and indicated that you would try to arrange back-to-back court proceedings on his bench warrant and a second MTV. At some point, however,

[1] In keeping with the protective order governing this matter, the Board uses initials to refer to your client and his spouse.

the U.S. Department of Veterans Affairs (the VA) purportedly canceled his disability benefit due to the warrant, and he decided not to wait any longer.

On February 7, 2019, D.C.H. came to your office unannounced and told you that he had decided to turn himself in to the authorities. Later that day, you accompanied him to the courthouse, where he appeared before a judge. The court vacated the bench warrant and scheduled a hearing on his violation of the FRO for March 6, 2019. Thereafter, you arranged for Carol Gold, Esq., who served as "of counsel" to your law firm, to represent him at the hearing.

On February 22, 2019, you sent a letter, by e-mail, to the office of D.C.H.'s Utah attorney, updating her on the FRO violation matter and informing her that you recently had received the official records from out-of-state.

On February 3, 2020, D.C.H. filed the underlying grievance against you. Subsequently, you prepared and filed the second MTV and represented him in the resulting proceedings until March 2021, when the court issued an order denying the motion.

Unrelated to your representation, the record further documents that, in 2019, D.C.H.'s child was placed in the care of a couple in Pennsylvania. In 2020, with the parent's consent, the couple received custody of the child.

Following a de novo review of the record, the Board found that, in connection with the second MTV, you violated RPC 1.1(a), RPC 1.3, and RPC 1.4(b). However, the Board determined to dismiss the charged violation of RPC 3.2 as it related to that matter. Moreover, the Board determined to dismiss all charges relating to your representation of D.C.H. in connection with his bench warrant.

Specifically, regarding the second MTV, the Board recognized that, initially, your preparation of the motion encountered various delays. Multiple changes in A.C.H.'s circumstances, as well as D.C.H.'s December 2017 violation of the FRO and, as of April 3, 2018, his associated bench warrant, required that you adapt your approach to the second filing and obtain records from out-of-state sources, which apparently took some time.

However, after the March 2019 hearing on the FRO violation and before you learned that D.C.H. had filed his February 2020 grievance, you allowed the

second MTV to languish, in violation of RPC 1.1(a) and RPC 1.3. Indeed, the record contains no evidence whatsoever of any substantive work undertaken by you during this period.

In your defense, you asserted that your client's history created a significant obstacle to him prevailing on an MTV. In support, you introduced the testimony of Richard A. Isolda, Esq., and Michael S. Rothmel, Esq., both of whom specialize in family law, and each testified that various aspects of D.C.H.'s history and circumstances made it unlikely that his motion would succeed.

However, the issue is not whether such a motion, if filed at that time, would have resulted in the court vacating the FRO altogether. Rather, if you believed that D.C.H. would not prevail, you had a duty to counsel him to this effect, as opposed to simply ceasing work on the motion. Similarly, if you felt you could not continue to represent him, you had a duty to terminate the attorney-client relationship. In addition, your emphasis on reasons a court would not have vacated the FRO in entirety fails to account for the fact that D.C.H. clearly wanted to file for custody of his child, and it was the order's provision barring him from contact with the child (not the order as a whole) that precluded him from doing so.

Turning to RPC 1.4(b), the OAE alleged that you violated this Rule by failing to communicate with D.C.H. for months at a time when he was requesting updates, court hearing dates, and information regarding when you would file the second MTV. You countered that you communicated with him frequently, addressed his concerns promptly, and kept him fully informed. You also alleged that while speaking to you by telephone, at times, he became verbally abusive. Nevertheless, you stated, you continued providing him updates, with any gaps in communication corresponding to periods of inactivity in his matters.

As with RPC 1.1(a) and RPC 1.3, the record does not clearly establish that you failed to keep D.C.H. reasonably informed of the status of his matters prior to March 6, 2019; however, following the hearing on that date, you clearly violated RPC 1.4(b) by failing to keep him reasonably informed regarding the status of your work on the second MTV. Specifically, his chief complaint about your communications was that you kept promising that the second MTV would proceed within a certain timeframe, which would then pass, only for you to get back to him with another such hollow assurance. But to the extent you may have

raised his hopes that you could complete the motion sooner, it would be a stretch to conclude that he thought you could do so without the out-of-state records.

In contrast, after February 2019 and continuing until D.C.H. filed his grievance, the evidence does not reveal any obstacles to drafting and filing the second MTV. It is telling that, nevertheless, the record contains no written communication from you to your client between March 7, 2019 and summer 2020. Although D.C.H. acknowledged that you still called him periodically for some time after the bench warrant proceeding, you failed to inform him of his matter's status during these calls. Instead, having stopped making any demonstrable efforts to prepare the second MTV, you failed to alert him that you could not or would not be filing the motion within a reasonable timeframe, if ever. Accordingly, your conduct violated RPC 1.4(b).

However, the Board determined that your neglect of the second MTV did not also constitute a failure to expedite litigation, as RPC 3.2 requires. Between December 2017 (when proceedings on the first MTV concluded) and November 2020 (when you filed the second MTV), there was no litigation regarding the FRO. Thus, the timing of the second motion did not affect any litigation.

Finally, the record before the Board falls short of establishing that you acted unethically by not arranging for D.C.H. to address his bench warrant prior to February 7, 2019. By the time the court issued that warrant, he had gone back to Utah, where he needed to be for work. A return to New Jersey to appear for a proceeding on the bench warrant would expose him to potential incarceration or a requirement that he remain in New Jersey, pending further proceedings on the FRO violation. Further, although he claimed that the VA eventually discontinued his disability payments due to the warrant, the record contains no documentation supporting these claims. Finally, he remained free to return to New Jersey to turn himself in at any time, as he eventually did. Under the circumstances, your apparent plan to arrange back-to-back court proceedings on the bench warrant and the second MTV, and your advice to avoid coming to New Jersey in the interim, did not rise to the level of an ethics infraction.

In imposing only an admonition, the Board accorded mitigating weight to your lack of formal discipline in twenty-seven years at the bar. Further, after you received D.C.H.'s grievance, you undertook remedial measures by filing the second MTV and continuing to represent him throughout the proceedings on that motion. In addition, according to the testimony of Gold, Isolda, and Rothmel,

you have a good reputation and character. Finally, circumstances suggest little likelihood that you will repeat your misconduct in the future.

A permanent record of this occurrence has been filed with the Clerk of the Supreme Court and the Board's office. Should you become the subject of any further discipline, this admonition will be taken into consideration.

The Board also has directed that the costs of the disciplinary proceedings be assessed against you. An invoice of costs will be forwarded to you under separate cover.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel

TME/knd
Enclosures

c: (w/o enclosures)
Chief Justice Stuart Rabner
Associate Justices
Heather Joy Baker, Clerk
Supreme Court of New Jersey
Hon. Mary Catherine Cuff, P.J.A.D. (Ret.), Chair
Disciplinary Review Board (e-mail)
Johanna Barba Jones, Director
Office of Attorney Ethics (e-mail and interoffice mail)
Colleen Burden, Deputy Ethics Counsel
Office of Attorney Ethics (e-mail)
D.C.H., Grievant (regular mail)