

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2018-227

IN THE MATTER OF	:	STIPULATION OF
	:	DISCIPLINE BY CONSENT
CECILIA SARDINA GUZMAN,	:	<u>R. 2:15-15A(b)</u>
JUDGE OF THE MUNICIPAL COURT	:	
	:	

THIS STIPULATION is made and entered into between Hon. Cecilia Sardina Guzman, J.M.C. (“Respondent”), through counsel, Robert Ramsey Esq., and Maureen G. Bauman, Disciplinary Counsel / Presenter for the Advisory Committee on Judicial Conduct (“ACJC” or the “Committee”).

Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 2002. At all times relevant to this matter, Respondent served as a part-time judge in the Municipal Courts of the City of Paterson and the Town of Dover. Respondent continues to serve as a part-time judge in the City of Paterson but no longer sits in the Town of Dover. At all times relevant to this matter, Respondent operated her law office as Cecilia Sardina Guzman, LLC, 250 Madison Avenue, Paterson, New Jersey 07524.

A. FACTS

On or about June 14, 2019, the Office of Attorney Ethics (“OAE”) and Respondent, through counsel, entered into a Disciplinary Stipulation wherein Respondent admitted violating the following Rules of Professional Conduct: RPC 1.1(a) (gross neglect); RPC 1.2(a) (failure to abide by the client’s decision concerning the scope and objectives of the representation); RPC 1.3

(lack of diligence); RPC 1.4(b) (failure to communicate with the client); RPC 1.15(a) (comingling personal funds with client funds in the attorney trust account and negligent misappropriation of client funds); RPC 1.15(d) (failure to comply with the recordkeeping provisions of R. 1:21-(6)); RPC 1.16(a)(3) (upon discharge by client, failure to withdraw from representation); RPC 1.16(d) (upon termination of representation, failure to refund unearned fee); RPC 5.3(b) (failure of a lawyer having direct supervisory authority of a nonlawyer employee to make reasonable efforts to ensure that the conduct of the employee is compatible with the professional obligations of the lawyer); and RPC 5.5(a) (unauthorized practice of law – failure to maintain professional liability insurance while practicing as an LLC).

On or about October 17, 2019, the OAE and Respondent's counsel appeared before the Disciplinary Review Board ("DRB" or the "Board") in respect of the Disciplinary Stipulation. On January 21, 2020, the Board issued its Decision recommending that a censure was the quantum of discipline necessary to protect the public and preserve confidence in the bar. **Exhibit 1**. The Board also recommended the imposition of certain conditions on Respondent in the event that she continued to practice law. On September 9, 2020, the Supreme Court of New Jersey entered an Order of discipline imposing a censure on Respondent. **Exhibit 2**.

Respondent acknowledges that she failed to obtain and maintain in good standing a policy of lawyers' professional insurance, as required by Rule 1:21-1A(a)(3). By this same conduct, Respondent acknowledges that she violated Canon 1, Rule 1.1 and Rule 1.2 and Canon 2, Rule 2.1, of the Code of Judicial Conduct.

Pursuant to Rule 1:28A, any attorney engaging in the private practice of law in New Jersey must maintain an interest-bearing account ("IOLTA") into which all sums received on behalf of clients are deposited. Failure to register such an account results in the inclusion of the attorney on

the list of attorneys, who, by Supreme Court order, will be deemed ineligible to practice law until they submit the required trust account forms to the IOLTA Fund Trustee. Despite this requirement, Respondent failed to register an attorney trust account with IOLTA per Rule 1:28A.

On or about October 17, 2017, pursuant to Rule 1:28A-2(d), the Supreme Court of New Jersey entered an Order declaring Respondent to be administratively ineligible to practice law as of October 20, 2017 based on her noncompliance with Rule 1:28A in respect of the Court's mandatory IOLTA program. **Exhibit 3.** Prior to this Order being entered by the Court, the IOLTA Fund sent Respondent three notices in respect of her noncompliance with Rule 1:28A. The first notice was sent to Respondent's office address in December 2016. Two notices were sent to Respondent's home address, one in June and a second in August 2017. **Exhibit 4** (Waldman Cert.) After the Supreme Court's declaration that Respondent was ineligible, Respondent satisfied her IOLTA requirement and her name was removed from the ineligible list on November 12, 2017.

Exhibit 5.

On or about October 16, 2018, the Supreme Court of New Jersey entered another Order in which Respondent was again deemed administratively ineligible to practice law as of October 22, 2018 based on her continued noncompliance with Rule 1:28A in respect of the Court's mandatory IOLTA program. **Exhibit 6.** Again, the IOLTA Fund notified Respondent at her home address of her noncompliance with Rule 1:28A, prior to the Court's October 16, 2018 Order, on the following dates: December 5, 2017, June 15, 2018, and August 27, 2018. During this time, Respondent, nonetheless, appeared in court on behalf of clients and continued to sit as a municipal court judge in the City of Paterson and the Town of Dover during the period of IOLTA ineligibility.

On or about October 17, 2019, Respondent satisfied the requirement to comply with the IOLTA program when she certified that she no longer engaged in the private practice of law and thus, was no longer required to maintain and register a trust account. **Exhibit 7**

On or about July 24, 2020, Respondent submitted a Certification to the New Jersey Supreme Court in which she admitted her failure to comply with the requirements of the IOLTA program. **Exhibit 8.**

Respondent is aware that, after the Committee's filing of its Formal Complaint on January 13, 2021, an additional period of ineligibility was discovered. This additional ineligibility also relates to Respondent's failure to register her trust account with the IOLTA Fund in 2017. Although Respondent was not charged with any violations relative to this additional period of ineligibility (October 23, 2017 – November 15, 2017), Respondent acknowledges that the conduct occurred, agrees that it violates the cited provisions of the Code, and accepts that any imposition of discipline will take into account this additional period of ineligibility.

B. MISCONDUCT COMMITTED

Respondent, by her conduct as set forth above, violated Canon 1, Rule 1.1 and Rule 1.2, and Canon 2, Rule 2.1, of the Code of Judicial Conduct. Respondent also violated Rule 1:14 and Rule 1:18 of the New Jersey Court Rules.

C. AGGRAVATING / MITIGATING CIRCUMSTANCES

Respondent has no prior judicial disciplinary history. As reflected in Respondent's Verified Answer, filed on February 4, 2021, Respondent admitted the facts alleged in the Formal Complaint. Although, Respondent denied that the facts as alleged constituted violations of the canons of the Code of Judicial Conduct, Respondent now concedes, through the filing of this Stipulation, that her conduct constitutes violations of the cited canons of the Code. There is nothing

in the record that reflects the presence of any mitigating factors. There is no evidence to indicate that Respondent's attention to her judicial duties faltered during the period of ineligibility or that she failed to attend appropriately to the matters before her during her period of ineligibility.

D. AGREED DISCIPLINARY SANCTION AND LEGAL PRECEDENT

The agreed recommended disciplinary sanction for this misconduct is a public censure . As a member of the Judiciary and a practicing member of the bar, it is incumbent upon Respondent to remain compliant with the court rules applicable to the practice of law in New Jersey. Respondent failed to meet her obligations in this regard and compounded that harm when she continued to sit as a municipal court judge for approximately 13 months (*i.e.*, October 23, 2017 through November 15, 2017; October 22, 2018 through October 17, 2019) despite her ineligibility to practice law due to her IOLTA noncompliance.

The basis for this recommendation is the New Jersey Supreme Court's order issued on March 11, 2021 publicly reprimanding a municipal court judge for: 1) practicing law in the form of a professional corporation without obtaining and maintaining in good standing a policy of professional liability insurance, and 2) practicing law and presiding as a municipal court judge for approximately five months despite administrative ineligibility to practice law based upon noncompliance with IOLTA requirements. See In re Guy W. Killen, 245 N.J. 382 (2021). In Killen, Respondent's administrative ineligibility to practice law, which lasted for a period of five months, was occasioned by his prolonged inattention to his professional licensing responsibilities, the consequence of which implicated his standing to serve as a jurist. Though Respondent eventually rectified his IOLTA ineligibility after receiving oral notification of same, he failed repeatedly to respond to the prior written notifications concerning that ineligibility. In that matter, Respondent acknowledged that his ineligibility was the result of his own failure to open mail and has accepted

responsibility for this conduct. In respect of his failure to file a certificate of insurance with the Clerk of the Supreme Court, Respondent, again, failed to devote sufficient attention to these professional obligations. Believing, incorrectly, that he was holding himself out as a sole practitioner, not a corporation, Respondent understood that he was not required to maintain professional liability insurance, which he could not afford at the time. Respondent, appreciating his misconduct in that instance, accepted responsibility for his neglect of his professional licensing responsibilities and corrected his professional association to reflect his standing as a sole practitioner, not a corporation.

As a member of the bench and bar, Respondent is obligated to maintain her license to practice law in good standing and to rectify, promptly, any ethical or administrative issues that affect the validity of that license. Having failed to do so, the agreed recommended disciplinary sanction is a public censure, which considers not only Respondent's prolonged misconduct and multiple periods of ineligibility, but the higher standard to which jurists are held and the absence of any mitigating factors present in this case, as discussed above.

E. RESPONDENT'S REPRESENTATIONS

By entering into this Stipulation of Discipline, Respondent agrees that this disciplinary action will proceed directly to the Committee, by way of application for discipline by consent, for its review and consideration on the written record, in accordance with Rule 2:15-15A(b)(3). No further documentation beyond the record submitted will be accepted by the Committee.

Respondent understands that, should the Committee grant the application for discipline by consent and accept the recommendation herein, the Committee shall submit the written record to the Supreme Court for further action in accordance with Rule 2:15-15A(b)(4). Respondent understands that, in the event the motion for discipline by consent is denied by the Committee, the

disciplinary proceeding shall resume as if no motion had been submitted and this Stipulation shall not be evidentiary.

F. LIST OF EXHIBITS IN SUPPORT OF STIPULATION

1. Disciplinary Review Board Decision Recommending Censure dated January 21, 2020;
2. Order issued by the Supreme Court censuring Respondent for various violations, filed September 15, 2020;
3. Notice and Supreme Court Order filed October 17, 2017 identifying attorneys deemed administratively ineligible due to IOLTA noncompliance;
4. Certification of Mary E. Waldman, Executive Director of the IOLTA Fund for the Bar of New Jersey, dated July 22, 2021;
5. Notice – Attorneys Reinstated from the 2017 IOLTA Ineligibility List dated November 12, 2017;
6. Notice and Supreme Court Order filed October 16, 2018 identifying attorneys deemed administratively ineligible due to IOLTA noncompliance;
7. Respondent's 2020 Attorney Registration Statement – IOLTA Exempt; and
8. Respondent's Certification dated July 24, 2020.

G. SIGNATURE, RECOMMENDATION AND APPROVAL

Cecilia Sardina Guzman
HON. CECILIA SARDINA GUZMAN, J.M.C.
Respondent

Aug 23, 2021
Date

~~ROBERT RAMSEY, ESQ.~~
~~Counsel to Respondent~~

Aug 25, 2021
Date

Maureen G Bauman
MAUREEN G. BAUMAN, ESQ.
ACJC Disciplinary Counsel / Presenter

Aug. 25, 2021
Date

Virginia A. Long
HON. VIRGINIA A. LONG, RET.
ACJC Chair

September 15, 2021
Date