

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

December 17, 2009

10-1318

NO. 31,936

IN THE MATTER OF JAY P. GOODMAN, ESQ.,

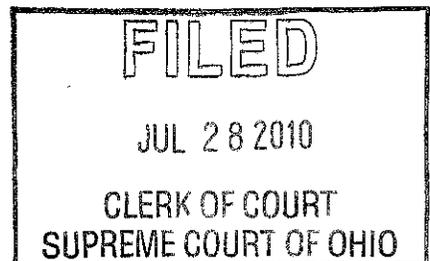
AN ATTORNEY ADMITTED TO PRACTICE BEFORE  
THE COURTS OF THE STATE OF NEW MEXICO

ORDER

WHEREAS, this matter came on for consideration by the Court upon recommendation of the Disciplinary Board, the Board and Respondent's petitions for review, briefs, and oral argument by the parties, Joel L. Widman appearing on behalf of the Disciplinary Board and Michael Schwarz on behalf of respondent, and the Court having considered said recommendation, pleadings, and oral argument and being sufficiently advised, Chief Justice Edward L. Chávez, Justice Patricio M. Serna, Justice Petra Jimenez Maes, and Justice Charles W. Daniels concurring, Justice Richard C. Bosson not participating;

NOW, THEREFORE, IT IS ORDERED that this Court adopts the Findings of Fact of the Hearing Committee and Board Panel;

IT IS FURTHER ORDERED that this Court adopts the Board Panel's Conclusions of Law numbered one (1), two (2), and three (3);



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Conclusions of Law numbered one (1), two (2), and three (3);

IT IS FURTHER ORDERED that this Court adopts the Recommendation of Discipline of the Hearing Committee:

(1) Respondent shall be provided with a letter of caution concerning his fee agreement letter;

(2) Respondent shall be provided with a formal reprimand pursuant to Rule 17-315(B) NMRA for violation of Rule 16-105(A) NMRA; and

(3) Respondent shall make restitution in the amount of the difference of the \$225.00 an hour that was charged for Arkin's fees and the \$125.00 that should have been charged for Arkin's fees. Restitution shall be on fees collected from all clients as contained in disciplinary counsel's Exhibit 12. Restitution shall be made on or before March 17, 2010, with interest accruing on any balance thereafter at the rate of eight percent (8%) per annum.

IT IS FURTHER ORDERED that the amended statement of costs and objection thereto hereby are REMANDED to the Disciplinary Board to determine only those costs specifically related to the violations found. Disciplinary Board shall file a second amended statement of costs.

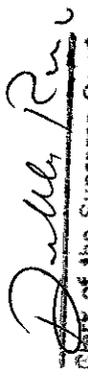
IT IS SO ORDERED.

WITNESS, Honorable Edward L. Chávez, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 17th day of December, 2009.

(SEAL)

  
Kathleen Jo Gibson, Chief Clerk of the Supreme Court of the State of New Mexico

ATTEST: A TRUE COPY

  
Doreen R. ...  
Clerk of the Supreme Court  
of the State of New Mexico

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT  
OF THE STATE OF NEW MEXICO

In the Matter of

JAY P. GOODMAN, ESQ.

Disciplinary No. 10-2008-554

An Attorney Licensed to  
Practice Law in the Courts  
of the State of New Mexico

**FORMAL REPRIMAND**

You are before the Disciplinary Board as a result of the determination by the New Mexico Supreme Court in this matter (Case No. 31,936) that you should be formally reprimanded as a result of your billing practices.

In this matter the Supreme Court has Ordered that you be formally reprimanded as a result of your conduct in employing Michael Arkin and Catherine Nguyen to render legal services, when neither was admitted to practice law in New Mexico, and charging lawyer's rates for their time.

Michael Arkin is a lawyer of considerable experience, who is not admitted to practice law in New Mexico. Catherine Nguyen was, during the first few months of her employment with your firm, a law school graduate who was not admitted to practice, although she had passed the California Bar. Despite the disparity in experience between Mr. Arkin and Ms. Nguyen, you billed them both at \$225.00 per hour. During the course of the investigation that led to the filing of charges in this matter, you claimed that the charges for Nguyen were a mistake based on your failure to understand that passing the bar was not the same as being sworn in. Nevertheless, you did refund to clients the difference between the amount collected for her billings and your law

clerk rate of \$125.00 per hour, albeit after the investigation of this matter commenced. You have been directed by the Court to make restitution as well for the difference between \$125.00 per hour and the amount per hour actually attributable to Mr. Arkin's billings.

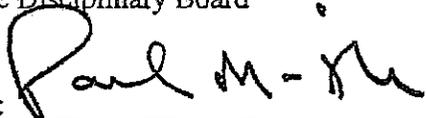
Your conduct in this matter violated Rule 16-105(A), because while Nguyen and Arkin were billed at the applicable rate for lawyers, neither was a licensed New Mexico attorney at the time. Thus, the fee charged clients for their time was unreasonable and it was so found by the Court.

The foregoing violations are aggravated by the fact that you exhibited a selfish motive and have considerable experience in the practice of law. In mitigation, it was found that you do not have a disciplinary record, that you had made partial restitution, and that you cooperated with disciplinary counsel's investigation. It is hoped that this Formal Reprimand will satisfy the primary concern of the disciplinary process, the protection of the public.

This Formal Reprimand will be filed with the Supreme Court in accordance with Rule 17-206(D), and will remain part of your permanent records with the Disciplinary Board, where it may be revealed upon any inquiry to the Board concerning any discipline ever imposed against you. In addition, in accordance with Rule 17-206(D), the entire text of this formal reprimand will be published in the State Bar of New Mexico *Bar Bulletin*.

DATED: March 19, 2010

The Disciplinary Board

By: 

Paul M. Fish, Chair