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April 10, 2014

Stanton E. Phillips, Esq.
1921 Gallows Road
Suite 110
Tysons Corner, Virginia 22182

Re: In the Matter of a Grievance Filed Against Stanton E. Phillips:
Attorney publicly reprimanded

INTRODUCTION

We review a report by the Hearing Panel in this matter wherein a recommendation of a finding of misconduct is made. The American Academy of Adoption Attorneys (the "Academy") Board of Trustees, after a full hearing and consideration of all submissions, concurs that misconduct occurred and publicly reprimands Stanton E. Phillips for the misconduct described below.

Mr. Phillips joined the Academy in 1990. He practices in Tysons Corner, Virginia. He has no previous public discipline by the Academy. Mr. Phillips has cooperated fully in this investigation.

This matter involves allegations by an Academy Fellow that Mr. Phillips committed misconduct in connection with a federal lawsuit against attorneys and others involving an interstate adoption case (Virginia to Utah) in which he was involved. The grievance alleged against the Academy Fellow was referred to the Hearing Panel on November 20, 2012, for review, investigation and recommendation to the Board of Trustees ("Board"). As authorized by Article VI (B) of the Grievance Procedures, Mr. Phillips, together with counsel, appeared before the Board on January 24, 2014, and made a statement and responded to questions propounded by the Board of Trustees.



Based on the information provided in the grievance, the Hearing Panel conducted a thorough investigation. The Board consequently finds that Mr. Phillips agreed to be named and to act as an expert witness in the federal case in which he had a financial interest in the outcome, and then either failed or refused to respond to various questions during his deposition which was either caused or contributed to by the inherent conflict of his representing the plaintiff in the state action while serving as his expert in the federal case.

Mr. Phillips' behavior was "[c]onduct which interferes with the administration of justice or otherwise brings the Academy into serious public disrepute." Therefore, he violated Article IV(A)(3) of the Grievance Procedures. Additionally, Mr. Phillips violated Article IV(A)(5) of the Grievance Procedures which states that "misconduct" includes: "Conduct in violation of the Academy Code of Ethics or in violation of the Academy Bylaws." The Academy Code of Ethics at Paragraph 1 states: "A member ... shall fully comply with the Ethical Rules, Disciplinary Rules, Ethical Canons, or other Rules of Professional Conduct in effect in each state where the member practices law, and shall maintain the highest standards of professional and ethical conduct. A member shall not engage in activities which bring discredit upon the Academy."

RELEVANT FACTS AND ANALYSIS

Mr. Phillips undertook representation of a Virginia birth father, in connection with his attempts in Virginia court to prevent the adoption of an infant by a Utah adoptive couple. Mr. Phillips was counsel of record for the birthfather in the Virginia court proceedings for the purpose of enforcement of the Virginia custody order which awarded custody of the child to the birth father. Mr. Phillips also served as a consultant and advisor to the birth father and other legal counsel who represented the birth father in proceedings in Virginia and Utah. The Utah Supreme court found that the infant adoptee had been properly placed with the Utah adoptive parents. Mr. Phillips appeared as "Of Counsel" in a petition for certiorari to the United States Supreme Court from the decision by the Utah Supreme Court. This grievance does not involve any aspect of Mr. Phillips' representation of the birth father with regard to the foregoing proceedings, nor are any improprieties relating to them alleged. At the time of the deposition of Mr. Phillips as a proposed expert witness referred to in this public reprimand, the birth father had incurred an unpaid legal bill with Mr. Phillips, in excess of \$100,000.

The birth father, through counsel other than Mr. Phillips, brought suit for money damages in U.S. District Court for the Eastern District of Virginia against certain individuals and entities, including attorneys who represented parties adverse to the birth father in the above referenced Virginia and Utah actions. Mr. Phillips did not enter an appearance in the federal litigation, but continued to represent the birth father in the capacity "of counsel" to the attorneys handling the petition of certiorari to the United States Supreme Court.

Mr. Phillips agreed to serve as an expert witness regarding Virginia adoption law in the federal lawsuit for money damages. A review of the 351 page transcript of his deposition revealed that Mr. Phillips repeatedly refused to, or was unable to testify or to provide opinions in the case because of his representation of the plaintiff in the related state court proceedings, although he was identified as an expert to do just that at trial. He presented as completely unprepared to render opinions, despite having submitted a written expert report. Although Mr. Phillips insisted upon being paid for his time before submitting to the deposition he subsequently asserted that he was not testifying as an expert. His participation in the federal case including his conduct during this deposition was unprofessional and interfered with the administration of justice.

In the course of the deposition, Mr. Phillips admitted that if the birth father prevailed in the federal case, Mr. Phillips would have a better likelihood of recovering his outstanding legal fee. Mr. Phillips' testimony as an expert under these circumstances creates an obvious and improper appearance of a financial stake in the outcome of the federal lawsuit where money damages were sought.

Mr. Phillips is a member of the Academy and was retained to serve as an expert witness in adoption law. His membership is part and parcel of his professional stature and cannot be separated from his personal behavior or professional conduct. Due to his obstructionist conduct in the deposition, and the appearance, if not the reality of a financial stake in the outcome of the case in which he was named as an expert, drawing the Academy into Mr. Phillips' constellation of personal behavior and professional conduct brought the reputation of the Academy into serious public disrepute and brought discredit upon the Academy.

The appropriateness of Mr. Phillips' retention as an expert witness in the federal litigation subsequently brought by the birth father while Mr. Phillips continued to represent the birth father in his appeal to the U.S. Supreme Court draws Mr. Phillips' conduct into serious question. The Hearing Panel took into account (a) Mr. Phillips continued to bill the birth father for legal services related to the family law case and had an outstanding unpaid balance at the time of his deposition; (b) the federal case involves the birth father suing for money damages; and (c) the subject matter of the family law case and the federal case are related.

Mr. Phillips' willingness to serve as an expert witness in a lawsuit stemming from the family law case where he also represented the birth father, is an ethically risky proposition at best – it is a scenario fraught with conflicts, potential conflicts, and the appearance of impropriety. The Board does not believe a reasonable and prudent attorney would venture into such an arrangement, let alone believe that by doing so Mr. Phillips maintained the highest standards of professional and ethical conduct as required by the Academy's Code of Ethics.

The instances of conduct described above become far more serious when viewed in the totality of the circumstances. This was not a case of one ill-advised act or omission. This was a

continuing pattern of conduct in which Mr. Phillips, while relying upon his Academy credentials, whether explicitly or implicitly, acted in a manner which reflected poorly upon the Academy. Perhaps Mr. Phillips would have been named as an expert without Academy credentials, but he was not, and it is impossible to separate his conduct in this matter as distinct from his Academy membership. As an Academy, we want our membership not only to meet their state's ethical requirements but to conduct themselves in the highest ethical standards including being above any appearance of impropriety.

CONCLUSIONS

The Board of Trustees conclusively finds that based upon a preponderance of the evidence that Mr. Phillips' conduct violated Article IV(A)(3) and (A)(5) of the Grievance Procedures. In determining the appropriate discipline, the Board considers the seriousness of the misconduct, the need to protect the public, the courts and the legal system from repetition of misconduct, the need to impress upon the attorney the seriousness of the misconduct, and the need to deter other attorneys from engaging in similar misconduct. Here, we are satisfied that a public reprimand is necessary to achieve these objectives.

THEREFORE, the Board of Trustees imposes the following discipline, pursuant to Grievance Procedures, Art. VII (A)(4):

Stanton E. Phillips is publicly reprimanded.

On Behalf of the Board of Trustees of the
American Academy of Adoption Attorneys

/s/ _____
DONALD C. COFSKY
President