



Office of Attorney Ethics
 Supreme Court of New Jersey
 PO Box 963
 Trenton, NJ 08625
 609-430-4008
 Trial Counsel: Michael J. Sweeney

OFFICE OF ATTORNEY ETHICS	:	SUPREME COURT OF NEW JERSEY
	:	DISTRICT XIV ETHICS COMMITTEE
	:	
Complainant,	:	DOCKET NO: XIV-01-485E
	:	
vs.	:	MISCONDUCT (COMPLEX)
	:	
JOHN P. DOYLE, ESQ.	:	DISCIPLINARY ACTION
	:	
Respondent,	:	COMPLAINT

Complainant, Office of Attorney Ethics of the Supreme Court of New Jersey ("OAE"), Mountain View Office Park, 840 Bear Tavern Road, P.O. Box 963, Trenton, New Jersey 08625, complaining of the unethical conduct of John P. Doyle, Esq. says:

GENERAL ALLEGATIONS

John P. Doyle, hereinafter referred to as "respondent", was admitted to the Bar of the State of New Jersey in 1967 and maintains an office to practice law with the Law Firm of Carluccio, Leone, Dimon, Doyle and Sacks, at 9 Robbins Street, Toms River, New Jersey 08753.

FIRST COUNT

1. In January of 1998 respondent was appointed as the attorney for the Planning Board of Brick Township (PBBT) and remained as PBBT attorney during all relevant times referred to in this complaint.

2. On May 17, 1999 respondent's law partner, Steven Leone, Esq. (Leone) rendered services to ARC Properties, Inc. (ARC) in connection with an easement from the Township of Lakewood related to a site plan application that was submitted by ARC to the PBBT by other counsel.

3. On May 28, 1999, ARC applied to the PBBT for site plan approval of the 200,000 square foot shopping center project. Respondent recused himself from the above referenced application before the PBBT.

4. Respondent has represented to the OAE that from the time of his appointment to the PBBT, he recused himself from all ARC matters before the PBBT.

5. In July of 1999, while the above referenced application was pending before the PBBT, respondent and Leone rendered services to ARC in connection with ARC's efforts to acquire a right of way easement through property owned by the Township of Lakewood adjacent to ARC's Brick property. If granted by Lakewood Township, the right of way easement would become a part of ARC's shopping center project then pending before the PBBT.

6. In August of 1999, while the above referenced application was pending before the PBBT, ARC entered into a written retainer agreement with respondent's law firm, through Leone, the managing partner, to assist it in acquiring the right of way easement through the property owned by the Township of Lakewood. (Exhibit 1).

7. Respondent rendered services to ARC in connection with the Township of Lakewood right of way easement from July 7, 1999 through August 23, 2000.

8. In June of 2000, respondent personally represented ARC before the Lakewood Township Committee to urge the adoption of an ordinance that would establish a public bidding process for the sale of the right of way easement by Lakewood.

9. The owner of a nearby shopping center in Lakewood appeared before the Lakewood Township Committee as an objector to the ordinance allowing for the sale by public bidding for the right of way easement. Said owner was also an objector to the pending ARC application before the PBBT.

10. After respondent appeared on behalf of ARC at a public meeting of the Lakewood Township Committee, the attorney for the nearby shopping center entered an objection based upon the appearance of a conflict of interest. Despite said objection, the Lakewood Township Committee introduced the requested ordinance on first reading on August 3, 2000.

11. In late August of 2000 after the above-referenced Township committee meeting and after receiving objections from counsel for the nearby shopping center, members of respondent's law firm performed research and realized that the law firm was prohibited from representing ARC in any way while respondent served as PBBT attorney. As a result, on August 23, 2000, the firm immediately withdrew from

representation of ARC in all matters and waived the payment of any fees including a \$25,000.00 fee that had already been earned.

12. On August 24, 2000, the Lakewood Township Committee adopted the ordinance establishing a public sale of the right of way easement. Neither respondent nor his law firm participated in this action in any way.

13. On September 14, 2000, respondent's law partner Leone on behalf of the firm, advised the Office of Attorney Ethics of the matter and stated that the firm had not intentionally violated the applicable ethics rules. He further advised that the firm's actions had been promptly and fully corrected. (Exhibit 2).

14. During an interview with representatives of the Office of Attorney Ethics on May 15, 2002, respondent stated that he was not aware at the time that his conduct constituted a conflict of interest, although based upon subsequent research, he agreed that said conduct did constitute a conflict of interest, which he emphasized was unintentional.

15. Respondent's conduct as aforesaid violated RPC 1.7(b), RPC 1.7(c)(1), In re A and B, 44 N.J. 331 (1965) and in re Dolan 76 N.J. 1 (1978).

WHEREFORE, respondent should be disciplined.

DATED: July 11, 2003

/s/ David E. Johnson, Jr., Director

Exhibit 2

CARLUCCIO, LEONE, DIMON, DOYLE & SACKS, L.L.C.
A Professional Limited Liability Company
COUNSELORS AT LAW
The Law Center of Ocean County
9 Robbins Street
Toms River, NJ 08753
(732) 797-1600 Fax: (732) 505-6340

September 14, 2000

David E. Johnson, Jr., Esq.
Director
Office of Attorney Ethics
Mountainview Office Park
840 Bear Tavern Road
West Trenton, NJ 08628

Dear Mr. Johnson:

I am the Managing Member of the firm of Carluccio, Leone, Dimon,, Doyle, Sacks, LLC (the "Firm"). The Firm consists of nine lawyers (6 members and 3 associates).

On May 28, 1999, ARC Properties, Inc. ("ARC") applied to the Planning Board of Brick Township (the "Board") for site plan approval for a 200,000 sq. ft. shopping center project (the "Project"). John Paul Doyle, Esq., a member of the Firm, is the attorney for the Board. Inasmuch as I am an attorney for Grandin Partnership and a principal of CherDeb Associates, which entities had business dealings with ARC involving the sale of property in Brick Township to ARC, Mr. Doyle had recused himself in connection with prior ARC applications to the Board and also recused himself from this application. No member of the Firm has had any role in any matter involving ARC before the Board. At the time the ARC application was filed with the Board the Firm did not represent the interests of ARC in any way.

In August, 1999, subsequent to filing the application with the Board, ARC retained the Firm, through me, to assist it in acquiring a Right Of Way (R.O.W.) Easement owned by the Township of Lakewood through properly adjacent to the site of the Project. If granted by Lakewood Township, the R.O.W. Easement would become part of the Project.

When ARC sought our assistance on the matter concerning the acquisition of a R.O.W. Easement from the Township Committee of

Lakewood Township, we did not, at that time, see any impediment to our representation of ARC. The recusal before the Board had long been in place and we were not asked to be involved in any way in any proceedings in Brick Township. While we entered into a retainer agreement with ARC, no fees were then sought or paid. At my request, Mr. Doyle provided assistance to ARC by communicating with the Township Committee of Lakewood Township and appearing before the Committee in June, 2000, to urge the adoption of an ordinance that would establish a bidding process for the sale of the R.O.W. Easement by the township.

1900 Rte. 70 Associates ("1900"), the owner of a nearby shopping center in Lakewood, appeared before the Township Committee of Lakewood Township as an objector to the granting of the R.O.W. Easement Through its attorney, R. S. Gasiorowski, Esq., 1900 is also an objector to the pending ARC application in Brick Township. When Mr. Doyle appeared at a public meeting of the Township Committee in Lakewood representing ARC in its effort to encourage the adoption of art ordinance that would permit the sale of the R..O.W. Easement, Mr. Gasiorowski entered an objection based upon the appearance of a conflict. The Township Committee adopted the ordinance on first reading on August 3, 2000.

Upon learning of the allegation of conflict of interest, on August 23, 2003, I contacted the [redacted] and spoke with [redacted], Esq. [sentence redacted] Mr. [redacted] was very helpful in referring me to the relevant Supreme Court decisions, In re A and B, and In re Dolan. From those decisions, I further researched three opinions of the Advisory Committee on Professional Ethics, Opinions 538, 70 and 90. I was unaware of these opinions until they were brought to my attention and I was unaware of the case law and decisions until I discussed this matter with Mr. [redacted].

My general observation of practicing municipal attorneys in this area has been that they have represented developer clients in municipalities where they do not serve as municipal attorney. Before I was admitted to the bar in 1988, I, in fact, retained municipal attorneys to represent me in other communities under circumstances similar to the facts of In re A. and B. It simply did not occur to me, based on my past experience and present observations, that representing ARC in these circumstances was a conflict of interest.

After review of the cases and discussions with members of the Firm and others, we realized that governing law appears to prohibit our representation of ARC in any matters. As a result, on August 23, 2000, we immediately withdrew from representation of ARC in all matters and waived the payment of any fees.

Subsequent to our withdrawal, on August 24, 2000, the Township Committee of Lakewood Township gave final approval to the ordinance

establishing a public sale of the R.O.W. Easement. The Firm did not participate in this action in any way.

The Firm regrets that it inadvertently allowed itself and its members to act in a manner that created an inappropriate appearance. This action was, as noted, not intentional and was promptly corrected upon notice.

The purpose of this letter is to advise the Office of Attorney Ethics of the circumstances of this matter. The Firm stands ready to cooperate fully in answering any questions that your office may have.

Respectfully,

/s/ Stephan R. Leone
Managing Partner

cc: John Paul Doyle, Esq.
Steven P. Perskie, Esq.