

JEFFREY S. CHIESA  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street, Fifth Floor  
Post Office Box 45029  
Newark, New Jersey 07101  
Attorney for the New Jersey State  
Board of Court Reporting

SHORTHAND REPORTING

*Marcelo L. Tamariglio*

**FILED**

*March 12, 2013*

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF COURT REPORTING

---

IN THE MATTER OF	:	
	:	<u>Administrative Action</u>
<b>MARC BRODY, C.C.R.</b>	:	
<b>Certificate No: 30XI00052100</b>	:	
	:	FINAL ORDER OF
FOR LICENSURE TO PRACTICE	:	DISCIPLINE
COURT REPORTING IN THE STATE	:	
OF NEW JERSEY	:	

---

This matter was opened to the State Board of Court Reporting, (hereinafter the "Board") following its review of information that indicated that the respondent Marc Brody, C.C.R., had engaged in the unlicensed practice of court reporting following the expiration of his reporting certificate in 2010, contrary to N.J.S.A. 45:1-7.1(c). The Board has reviewed relevant documents on which the following preliminary findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent is a certified court reporter in the State of New Jersey.

2. Review of this matter revealed that Mr. Brody was initially issued a certificate to practice court reporting in this State on or about May 1, 1970. The Board's records indicate however that Mr. Brody's certificate expired on June 30, 2010 and that he has failed to renew his certificate since that date. Mr. Brody's certificate was administratively suspended without a hearing based upon his failure to renew the certificate, pursuant to N.J.S.A. 45:1-7.1. Therefore, Mr. Brody's certificate was suspended for the 2010-2012 licensure period and continues to be suspended to date during the current 2012-2014 licensure period.

3. On or about its March 2012 meeting, the Board reviewed information which indicated that Mr. Brody is engaging in the practice of court reporting by offering to provide and/or providing court reporting services in the State despite the fact that his certificate to practice court reporting has been expired since 2010. This conduct constitutes a violation of N.J.S.A. 45:1-7.1 and N.J.A.C. 43:3A.1.

4. On or about September 28, 2009, the respondent was disciplined, following his admission, for engaging in the practice of court reporting without a valid certificate after

August 1, 2004 until June 30, 2008, contrary to N.J.S.A. 45:1-7.1(c).

5. Having reviewed the entire record, it appears to the Board that Mr. Brody has again engaged in the practice of court reporting without a valid certificate after August 1, 2010 to the present, in violation of N.J.S.A. 45:1-7.1(c), N.J.S.A. 45:1-21(h) and N.J.A.C. 43:3A.

#### CONCLUSIONS OF LAW

1. Respondent's conduct of offering to provide and/or providing court reporting services constitutes the practice of court reporting, contrary to N.J.S.A. 45:15B-9 and 15B-10.

2. Engaging in the practice of court reporting with a certificate administratively suspended by operation of law, as authorized by N.J.S.A. 45:1-7.1(b), constitutes the unlicensed practice of court reporting, contrary to N.J.S.A. 45:1-7.1(c) and N.J.A.C. 13:43-3A.1(d).

3. Respondent is subject to disciplinary sanctions pursuant to N.J.S.A. 45:1-21(h), failure to comply with the provisions of an act or regulation administered by the Board, which constitutes grounds for sanction pursuant to N.J.S.A. 45:1-25.

### DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline, which provisionally imposed a formal reprimand, a cease and desist directive and a civil penalty totaling \$5,000.00, was entered on December 5, 2012, and a copy was served on the respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

In response to the Provisional Order, the respondent requested a modification or dismissal of said findings and conclusions, and alternatively requested the reduction of the \$5,000.00 civil penalty, or the approval of a payment plan, in a letter dated January 11, 2013. In support of his request, Mr. Brody admitted that he had allowed his certificate to expire and that he had continued to work in order to satisfy his business

invoices. Additionally, he requested that the Board provide him with any consideration it could.

The Board reviewed the respondent's submission at its January 14, 2013 meeting. Following its review of this matter, the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board noted that Mr. Brody was previously disciplined by the Board, in a Consent Order filed September 28, 2009. In this matter, the Board found, and respondent admitted, that he had engaged in the practice of court reporting without a valid certificate after August 1, 2004 to June 30, 2008, contrary to N.J.S.A. 45:1-7.1(c). Mr. Brody was reprimanded and assessed a civil penalty of \$1,500.00. The Board's records in this matter reveal that the respondent has an outstanding balance of \$125.00 from the assessed civil penalty of the 2009 Order.

The Board, in its review of this matter, noted Mr. Brody's request for consideration, however it further noted that sufficient aggravating circumstances existed in this matter to warrant discipline. The Board found that this present substantiated violation constitutes a subsequent infraction of the Board's renewal regulations for which the respondent had already been sanctioned. Hence, the Board concluded that

enhanced penalties, as authorized by N.J.S.A. 45:1-25, were warranted. Further, the Board found that the respondent had failed to comply with the provisions of the 2009 Consent Order by failing to pay the imposed civil penalty in full. Thereafter, the Board voted to finalize the Provisional Order filed in this matter with modifications.

ACCORDINGLY, IT IS on this 1<sup>st</sup> day of ~~JANUARY~~ <sup>March</sup> 2013

**ORDERED that:**

1. Respondent, Marc Brody, C.C.R., is hereby formally reprimanded for his conduct as described above, namely, engaging in the practice of court reporting without a valid certificate after August 1, 2010 to the present, contrary to N.J.S.A. 45:1-7.2 and N.J.S.A. 45:1-7.1(c).

2. Respondent shall immediately cease and desist from offering to provide, and/or providing, and/or engaging in the uncertified practice of court reporting; until such time as his certificate is reinstated by the Board; contrary to N.J.S.A. 45:1-7.2 and N.J.A.C. 13:43-3A.1(d).

3. Mr. Brody's certificate to practice court reporting shall be reinstated following his compliance with the following conditions:

a. Respondent shall pay the outstanding balance, totaling \$125.00, from the civil penalty imposed in the 2009 Consent Order within thirty (30) days of the entry of this Order;

b. Mr. Brody shall provide proof of full attendance at, and successful completion of a minimum of, fifteen (15) credit hours of Board pre-approved courses of continuing education as required by N.J.S.A. 45:15B-3.1 and N.J.A.C. 13:43-7.1(a), within **six (6) months** of the date of this Order. No continuing education credits completed in compliance with this Consent Order may be used to satisfy the minimum continuing education requirements for any biennial renewal period.

c) Respondent shall pay a civil penalty in the amount of **\$5,000.00** for engaging in the practice of court reporting without a valid certificate, since 2010, in violation of N.J.S.A. 45:1-21(h), N.J.S.A. 45:1-7.1 and N.J.A.C. 13:43-3A.1. Payment for the civil penalty shall be submitted contemporaneously with the filing of this Order, by certified check or money order, made payable to the State Board of Court Reporting and shall be forwarded to Dianne L. Tamaroglio, Executive Director, Board of Court Reporting, 124 Halsey Street, Sixth Floor, Post Office Box 45019, Newark, New Jersey 07101. Subsequent violations will subject respondent to enhanced penalties subject to N.J.S.A. 45:1-25.

In the alternative, the respondent may pay the civil penalty, totaling \$5,000.00, in equal monthly installment payments of \$208.00 for a total twenty-three (23) months. The twenty-fourth (24<sup>th</sup>) and final payment will total \$216.00. The first payment shall be paid simultaneously with submission of this Order with subsequent payments due on the fifteenth of each month thereafter until the total amount is paid in full.

Any failure to make any installment payment within ten (10) days of the due date shall cause the entire remaining balance to become immediately due and payable without further notice. Further, failure to pay the penalty within the time period allotted above will result in the filing of a Certificate of Debt, including the applicable interest permitted by the New Jersey Court Rules, and will result in subsequent disciplinary proceedings, as detailed below in this Order, before the Board for failure to comply with an Order of the Board.

4. Mr. Brody shall be subject to an order of automatic suspension of his certificate upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this Order, including but not limited to his failure to: 1) pay the outstanding balance remaining from the 2009 Consent Order within the allotted time

period; 2) complete the required continuing education within the allotted six month period; and 3) remit any and all payments required by this Order. Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the Board.

NEW JERSEY STATE BOARD  
OF COURT REPORTING

By: \_\_\_\_\_

  
MARIANNE CAMMAROTA, C.C.R.  
President