



BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS

IN THE MATTER OF
JASON MARIO BRUNO
State Bar Card No. 24073334

Respondent.

Case No. 65864

MOTION TO DISMISS

Attorney Jason Mario Bruno (“Bruno”) respectfully asks this Board to dismiss this disciplinary proceeding because the statute of limitations has expired and Texas law prohibits the imposition of discipline for the conduct alleged, which all occurred on or before July 25, 2014. Texas Rule of Disciplinary Procedure § 17.06 provides, in pertinent part:

- A. General Rule: No attorney may be disciplined for Professional Misconduct that occurred more than four years before the date on which a Grievance alleging the Professional Misconduct is received by the Chief Disciplinary Counsel.
- B. Exception: Compulsory Discipline: The general rule does not apply to a Disciplinary Action seeking compulsory discipline under Part VIII.

The Texas Supreme Court ascertains the intent from the plain meaning of the words in the rule. *N. E. Indep. Sch. Dist. v. Riou*, 598 S.W.3d 243, 253 (Tex. 2020). The Rule’s time limitation clearly applies to reciprocal discipline proceedings. The Rule contains an express exception for compulsory discipline, but purposely omits any similar exception for reciprocal discipline. The doctrine

of *inclusio unius est exclusio alterius* is the presumption that purposeful inclusion of specific terms in a writing implies the purposeful exclusion of terms that do not appear. *City of Houston v. Williams*, 353 S.W.3d 128, 145 (Tex. 2011).

Pursuant to the plain language of Rule § 17.06, Bruno may not be disciplined for the conducted alleged because it all occurred on or before July 25, 2014.

According to the “Complaint” attached to the Petition for Reciprocal Discipline, Bruno allegedly failed to correct the testimony of a witness during a deposition. [Complaint, ¶ 19]. That deposition occurred on July 25, 2014. [Complaint, ¶ 17]. The Complaint further alleges that Bruno instructed his expert to make changes to a draft report in October of 2013 and failed to disclose that draft report and a related October 23, 2013 email in response to both a request for production and a subpoena served on the expert. [Complaint, ¶¶ 7, 10-15]. The non-deposition related events described in the Complaint occurred before the deposition taken on July 25, 2014. Bruno produced the draft report and October 23, 2013 email to his opponent on August 17, 2017 in compliance with the Order of the Maricopa County Superior Court after his objections to the production of draft reports and expert communications was overruled. [Exhibit A].

WHEREFORE, Bruno respectfully requests that the Board dismiss the disciplinary proceeding because it pertains to conduct occurring on or before July 25, 2014 that is no longer subject to discipline in Texas.

Jason M. Bruno, Respondent,

By: /s/ Jason M. Bruno
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Pro Se

CERTIFICATE OF FILING

The undersigned certifies that the foregoing Motion was efiled on October 21, 2021 to:

Jenny Hodgkins Via e-filing to filing@txboda.org
Board of Disciplinary Appeals
Supreme Court of Texas
P. O. Box 12426
Austin, Texas 78711
Jenny.Hodgkins@TEXASBAR.COM

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Motion was served via email on October 21, 2021 to:

Luis J. Marin
Assistant Disciplinary Counsel
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EXHIBIT A

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August 17, 2017

Via U.S. Standard Mail:

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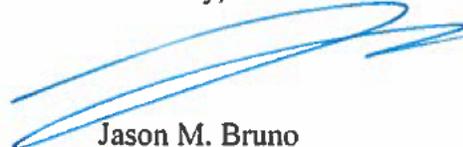
RE: David Berg, et al v. Weiss & Moy, P.C., et al; Case No. CV2013-015419

Dear Mr. Abrahams:

Please find the enclosed disc containing communications with expert witnesses Gary Stuart and Tim Downer. This will be the Plaintiff's Rule 26.1 Supplemental Disclosure August 17, 2017. Also, please be advised that any attorney client communications would constitute inadvertent disclosures.

Thank you.

Sincerely,



Jason M. Bruno
For the Firm

JMB: 