

In the Matter of a Grievance Filed Against John Terry Bado and Barbara Bado:  
Complainant,

v.

John Terry Bado and Barbara Bado  
Respondents.

*Attorneys publicly reprimanded.*

We review a report and recommendations filed by the investigatory panel, James Swaim, Chair, recommending that the American Academy of Adoption Attorneys (the "Academy") Board of Trustees privately reprimand John Terry Bado and Barbara Bado in this matter. The Board finds that Misconduct occurred and publicly reprimands Attorney John Terry Bado and Attorney Barbara Bado for the Misconduct described below.

Attorneys John Terry Bado and Barbara Bado (the "Bados") joined the Academy in 1993. They practice together in Edmond, Oklahoma. They have no previous discipline by the Academy. They have cooperated in this investigation.

This matter involves allegations by adoptive parents that the Bados committed misconduct in connection with their handling of an adoption. The grievance of the adoptive parents was referred to the panel on April 1, 2008, for review, investigation and recommendation to the Board of Trustees ("Board"). The Bados appeared before the Board and made a statement on February 6, 2009. The Board had the opportunity to question the Bados. The circumstances implicated by the grievance involved both John Terry Bado and Barbara Bado. The Bados have responded jointly to the grievance and to inquiries by the panel and Board. Based on the investigation and proceedings in this matter, the Board finds the following:

The Bados' office was contacted by the adoptive parents in early January 2006. The adoptive parents lived in Kentucky. Because of the adoptive mother's Native Alaskan heritage and the adoptive parents' previous contact with Academy members, they decided to seek out attorneys or an agency that might have children with Native American heritage available for adoption.

The adoptive parents' call to the Bados' office was returned by Judy White, who was represented to them to be an "independent caseworker" by the Bados' law firm. It was clear that the adoptive parents never understood that the Bados' law firm was not an adoption agency. This was understandable, as the communication between the Bados and the adoptive parents was unclear in this regard.

The Bados, or Ms. White, found an expectant mother due to deliver in June 2006. She decided to place her child with the adoptive parents. The Bados considered themselves to be representing the adoptive parents.

There were many complaints by the adoptive parents about Ms. White's extensive involvement in the adoptive parents' meetings and contacts with the birth mother. The birth mother also complained about unwanted contact and interference in their relationship. Apparently, Ms. White was trying to assist both the birth mother and adoptive parents. Both, however, claimed to have declined that assistance. Although the birth mother and adoptive parents stated that her involvement was unwelcome, Ms. White allegedly insisted on being present at meetings, hospital contacts and doctors' visits.

The child was born on June 2, 2006. Ms. White contacted the tribe to obtain approval for the adoption. ICPC approval allowed the child to go home to Kentucky with the adoptive parents in June. Apparently, Ms. White continued to contact the tribe during the summer of 2006 in an attempt to enroll the child, made contact with ICPC offices and communicated with various individuals on the Bados' letterhead. In the summer of 2006, the adoptive parents moved to Wisconsin.

It appears that the tribe would not consent to the adoption until enrollment of the child occurred. This did not occur in 2006. The Bados did not have personal involvement in the attempt at enrollment. Barbara Bado was in charge of completing the forms for enrollment, but failed to do so because the forms were confusing. In March 2007, the adoptive parents, themselves, contacted the tribe, and the child was quickly enrolled. The tribe denied having been contacted by the Bados. The Bados admitted that they did not follow through with the tribe, as they should have.

The Bados' fee agreement with the adoptive parents provided that the case would not be scheduled for finalization until "all accounts have been paid in full, or acceptable arrangements for payment have been made." The adoptive parents received a bill from Ms. White for 111 hours of work at \$30 per hour. They requested a more detailed itemization of the bill, which they did not receive until November 2007. This created a delay in finalization of the adoption.

The Bados indicated that there was difficulty with finalizing adoptions in Oklahoma County, because of a new system for scrutinizing adoption-related attorneys' fees. The Bados stated that the court system did not know how to handle the attorneys' fees issue. They further indicated that the judge ultimately chose a week in November 2007, when he allowed previously-filed adoptions to be finalized. The adoption was finalized in November 2007, 22 months after the first contact with the adoptive parents and 17 months after the child was born.

A complaint was filed against John Terry Bado with the Oklahoma Bar Association. It was dismissed without discipline. The Bados returned \$1350 to the adoptive parents, in recognition of the fact that the adoptive parents had obtained

the tribal enrollment themselves, and the fact that the parties would not require post-adoption contact assistance.

The Board of Trustees finds that the Bados committed the following Misconduct, as defined in the Grievance Procedures, and violated the following provisions of the Code of Ethics, which constitutes Misconduct (Grievance Procedures, Art. IV.A.5.):

- (1) Conduct which interferes with the administration of justice or otherwise brings the Academy into serious public disrepute. Grievance Procedures, Art. IV.A.3.
- (2) A member shall not purport to represent both the prospective adopting parent(s) and one or both birth parents, where such representation is specifically prohibited. Code of Ethics, ¶ 3.
- (3) A member shall not enter into an agreement for, charge, or collect an illegal or unconscionable fee. Advanced fees collected by a member shall be returned to the client if not commensurate with the services that have been provided by the member. A member shall not, directly or indirectly, charge a finder's fee for locating a birth parent. Code of Ethics, ¶ 7.

The Misconduct included the following:

- (1) The Bados did not clearly convey to the adoptive parents that their role was that of attorneys and not that of an adoption agency.
- (2) The Bados held Judy White out as an independent contractor, but it was clear that she was operating as an employee of the Bados.
- (3) Ms. White performed tasks associated with the legal aspects of the adoption, not strictly caseworker or social worker tasks. If she was not the Bados' employee and was an independent contractor, then she was practicing law without a license, under the Bados' direction.
- (4) Although the Bados referred the birth mother to independent counsel, they worked with her before she had independent counsel, showing her profiles, explaining the legal process and introducing her to the adoptive parents.
- (5) The Bados charged a flat fee of \$12,000, but failed to advance the case or keep their clients informed.
- (6) The Bados neglected the adoption matter from the summer of 2006 until the fall of 2007.
- (7) The Bados failed to keep their clients informed of the progress or status of their case. They failed to respond to requests for information from their clients.
- (8) The Bados acted in too many capacities. They operated as, and allowed the adoptive parents to believe they were, an adoption agency. They advised both the birth mother and the adoptive parents. They crossed boundaries to perform social work-type functions with the birth mother. In their presentation to the Board of

Trustees in February 2009, they stated that they continue to believe this kind of birth mother “support” is important. They stated that they continue to advocate for the birth mother and support her in medical matters, including demanding that the doctors order certain tests. They also stated that they almost always represent the adoptive parents.

The panel met with the Bados in May 2008 to discuss ways in which to improve their practice in the above areas. It is important to note that the Bados have cooperated fully in this investigative process and have paid close attention to the suggestions made by the panel. They have made some of the recommended changes. Unfortunately, it is clear that the Bados still do not recognize that certain practices are unacceptable. They have recently indicated that they still work with birth mothers “intensely” regarding medical care, housing, and food, so that there is someone to care about them. The Bados did admit that they may be “overprotective” of birth mothers and that, in this case, the parties were not comfortable with that level of involvement. It did appear, however, that the Bados do not understand the problem with this degree of involvement, particularly with a party they do not represent, and that they intend to continue their practices in that regard.

In determining the appropriate discipline, the Board of Trustees 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 attorneys 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.:

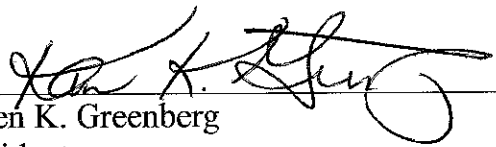
John Terry Bado and Barbara Bado are publicly reprimanded. They are directed to cease and desist from the Misconduct described above in the future. They are specifically directed to cease and desist from:

- (1) Conduct suggesting they are an adoption agency rather than adoption attorneys;
- (2) Providing legal advice and counsel to birth parents, while representing the adoptive parents;
- (3) Holding out employees as independent contractors;
- (4) Permitting non-lawyers to practice law or explain legal issues to clients or other parties;

- (5) Involving themselves excessively with birth mothers whom they do not represent;
- (6) Being present at medical appointments for birth mothers whom they do not represent;
- (7) Requiring anyone in particular to be with the birth mother during her hospital stay;
- (8) Neglecting their adoption matters, including failing to promptly address necessary tribal enrollment;
- (9) Failing to keep clients informed of the progress of their cases;
- (10) Acting in multiple capacities in adoption matters, failing to restrict their actions as attorneys in adoptions where they represent adoptive parents, and holding themselves out as an adoption agency;
- (11) Charging an unconscionable fee in a case where there has been client neglect, failure to address legal issues, and confusion in dealing excessively with a birth mother where they represent adoptive parents only.

Dated: February 12, 2009.

AMERICAN ACADEMY OF  
ADOPTION ATTORNEYS  
Board of Trustees

By:   
Karen K. Greenberg  
President