

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 10-206
District Docket No. IIB-2009-0001E

IN THE MATTER OF
GORDON A. WASHINGTON
AN ATTORNEY AT LAW

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Decided: October 13, 2010

To the Honorable Chief Justice and Associate Justices of
the Supreme Court of New Jersey.

This matter was before us on a certification of default
filed by the District IIB Ethics Committee (DEC), pursuant to R.
1:20-4(f). The complaint charged respondent with having violated
RPC 1.4, presumably (b) (failure to communicate with the client),
and RPC 8.1(b)(failure to cooperate with an ethics investigation).
We determine to impose a censure.

Respondent was admitted to the New Jersey bar in 1985. On
January 26, 2006, he received an admonition for lack of
diligence and failure to promptly deliver funds to a third party

in a real estate transaction. In the Matter of Gordon Allen Washington, DRB 05-307 (January 26, 2006). On May 26, 2010, respondent was temporarily suspended from the practice of law, "pending final determination of all ethics proceedings against him." In re Washington, 202 N.J. 125 (2010).

This matter was originally before us at our April 2010 session, as a default. By letter dated April 30, 2010, we granted respondent's motion to vacate the default and directed him to file a verified answer to the complaint no later than fourteen days from his receipt of the letter, or risk a re-certification of the record to us. As of June 8, 2010, respondent had not filed an answer. Therefore, the DEC re-certified the record to us.

Service of process was proper in this matter.

On November 6, 2009, the DEC sent a copy of the complaint to respondent by both certified and regular mail, pursuant to R. 1:20-4(d), at his office address, 17 North Dean Street, Englewood, New Jersey 07631. According to the certification of service, the certified mail card was not returned, but the post office confirmed delivery of the parcel received by "S. Douglas" on November 10, 2009. The regular mail was not returned.

On December 31, 2009, the DEC sent respondent a "five-day" letter, notifying him that, unless he filed an answer to the

complaint within five days of the date of the letter, the matter would be certified directly to us, pursuant to R. 1:20-4(f). The letter was sent by regular mail to respondent's aforesaid office address. The certification is silent about the delivery status of the letter. Nevertheless, respondent's subsequent filing of a motion to vacate the default confirmed proper service of the complaint.

According to the complaint, on August 16, 2007, Toni Young retained respondent to represent her in connection with the estate of Daniel Young. On August 24, 2007, respondent agreed to include the estate of Marie Hubbard within the scope of the representation.

Respondent was actively involved in the representation until December 2007, when he ceased working on the matter. Young contacted respondent several times by telephone and email, between December 2007 and August 2008, requesting information about the matter. She never received a reply. Ultimately, in August 2008, Young terminated respondent's representation and retained new counsel.

On three separate occasions, beginning in June 2009, the DEC investigator attempted to obtain information from respondent about Young's grievance. The complaint does not specify the

dates of those inquiries. Respondent failed to reply to the investigator's requests for information.

The facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Respondent was retained in August 2007 to represent Young in two estate matters. In December 2007, he ceased working on the cases. When, on several occasions thereafter, Young sought information about the matters from respondent, he failed to reply to her. Respondent's silence prompted Young to retain a new attorney. Respondent's failure to reply to his client's reasonable requests for information about the case violated RPC 1.4(b).

So, too, respondent failed to cooperate with the DEC investigation of Young's grievance, ignoring the investigator's requests for information about the matter and failing to provide a written reply to the grievance. In this regard, respondent violated RPC 8.1(b).

Attorneys who fail to communicate with their clients have received admonitions, even when this impropriety is found alongside other non-serious ethics improprieties. See, e.g., In

the Matter of Todd E. Schoenwetter, DRB 07-348 (February 1, 2008) (attorney failed to communicate with the client and failed to cooperate with ethics authorities in the investigation); In the Matter of Thomas J. Haggerty, DRB 08-029 (July 24, 2008) (attorney failed to communicate with the client, failed to cooperate with ethics authorities in the investigation of the matter and lacked diligence in the matter); and In the Matter of Alan Zark, DRB 04-443 (February 18, 2005) (attorney failed to reply to the clients' requests for information about their matter; the attorney also caused his clients unnecessary concern over the disposition of some checks to be transmitted to a court-appointed fiscal agent when the attorney turned over the checks to the agent six months later, without first notifying the clients).

This case is similar to Schoenwetter. There, the attorney represented a client in connection with injuries sustained in an automobile accident. Although the attorney settled the matter favorably for the client, he failed to advise her, during the case, that a medical provider had sent the client's bills, totaling \$4,000, to the attorney. When the provider later billed the client directly for that sum, the attorney failed to reply, for a period of several months, to the client's reasonable

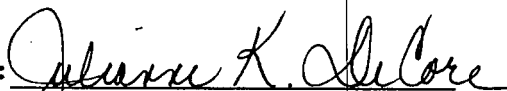
requests for information about her bills. Additionally, the attorney failed to cooperate with ethics authorities in the investigation of the grievance. In mitigation, we considered that the attorney had no prior discipline.

Here, however, two aggravating factors are present that were not in Schoenwetter. First, respondent has prior discipline, having received an admonition in 2006 for lack of diligence and failure to promptly deliver funds to a third party. Just a year later, he slipped back into bad habits, when engaging in the dilatory conduct here. Second, respondent has twice allowed this matter to proceed to us as a default. In default matters, the appropriate discipline for found ethics violations is enhanced to reflect the attorney's failure to cooperate with disciplinary authorities as an aggravating factor. In the Matter of Robert J. Nemshick, DRB 03-364, 03-365, and 03-366 (March 11, 2004) (slip op. at 6).

For the default status alone, we determine that the Schoenwetter admonition must be enhanced to a reprimand. Due to respondent's prior discipline and his twice having allowed this matter to proceed to us as a default, however, we determine to impose a censure.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Louis Pashman, Chair

By: 
Julianne K. DeCore
Chief Counsel

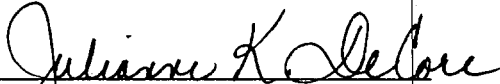
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

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Disposition: Censure

Members	Disbar	Censure	Reprimand	Dismiss	Disqualified	Did not participate
Pashman		X				
Frost		X				
Baugh		X				
Clark		X				
Doremus		X				
Stanton		X				
Wissinger		X				
Yamner		X				
Zmirich		X				
Total:		9				


Julianne K. DeCore
Chief Counsel