

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 12-108
District Docket No. IIA-2012-0002E

IN THE MATTER OF
TERENCE JOHN DAHL
AN ATTORNEY AT LAW

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Decision

Decided: August 20, 2012

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

This matter was before us on a certified record from the District IIA Ethics Committee (DEC). The complaint charged respondent with violating RPC 1.4(b) (failure to comply with a client's reasonable requests for information).

In November 2010, respondent entered into an agreement in lieu of discipline (the agreement), arising from the incident that forms the basis for the ethics complaint. Respondent, however, failed to attend the NJSBA Diversionary Continuing Legal Education Program, thereby violating one of the conditions

of the agreement. The agreement provided that failure to comply with the conditions would result in the filing of a complaint. Thus, the DEC proceeded by way of a complaint.

In November 2011, this matter was forwarded to us as a default. In January 2012, the Office of Board Counsel (OBC) administratively dismissed the case because the complaint did not conform to the requisites of R. 1:20-4. Specifically, the complaint failed to specify the RPC that respondent's conduct was alleged to have violated. Furthermore, despite the complaint's acknowledgement that respondent had ceased practicing law in New Jersey and was employed by a company in New York, the complaint was sent to his former New Jersey law office address, rather than his home. The certified mail card bearing the law office address was signed, but not by respondent. Although the regular mail was not returned, under the circumstances, the presumption of receipt could not be applied. Thus, the matter was administratively dismissed and returned to the Office of Attorney Ethics for appropriate disposition.

The complaint was revised and properly served. Respondent failed to file a timely answer. We determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 2003. He has no history of discipline.

Respondent has been ineligible to practice law since September 26, 2011, for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection. He no longer practices law in New Jersey.

As indicated previously, at first service of process was not proper in this matter. Specifically, on August 3, 2011, the DEC secretary mailed a copy of the complaint to respondent's office address, 4 Wilsey Square, Ridgewood, New Jersey 07450, by certified and regular mail. The certified mail receipt was returned, indicating delivery on August 6, 2011. The regular mail was not returned.

On October 14, 2011, the DEC secretary sent a second letter to the above address, by regular mail, advising respondent that, if he did not file an answer to the complaint within five days, the allegations of the complaint would be deemed admitted and the record would be certified to us for the imposition of discipline. The letter also served to amend the complaint to charge respondent with violating RPC 8.1(b) for failing to file an answer. The regular mail was not returned.

Respondent did not file an answer and the record was certified to us in November 2011. As mentioned above, the OBC administratively dismissed the matter for deficiencies in the complaint and in service.

On February 3, 2012, the DEC secretary sent the amended complaint to respondent's home address, 72 Cottage Street, Midland Park, New Jersey 07432, by certified and regular mail. The certified mail receipt indicates delivery on February 4, 2012. The regular mail was not returned.

On February 29, 2012, the DEC secretary sent a second letter to that address, by regular mail, advising respondent that, if he did not file an answer within five days, the allegations of the complaint would be deemed admitted and the record would be certified to us for the imposition of discipline. The letter also served to amend the complaint to charge respondent with violating RPC 8.1(b) for failing to file an answer. The regular mail was not returned. Respondent did not file an answer to the complaint.

The allegations of the complaint are as follows:

In November 2008, Bridget C. Dynarski consulted with respondent about representing her as the executrix of the estate of her sister, Katherine Hynes. Dynarski and respondent entered

into a fee agreement in December 2008, calling for a \$2,500 retainer, which was paid, and an hourly rate of \$250.

Dynarski wanted to gain access to Hynes' home to retrieve personal items and financial information, but was being prevented from doing so by another relative, then in residence. She also wanted respondent's advice/assistance about the right of election, held by Hynes' husband, and the requirement that an inventory be prepared and filed with the surrogate. Finally, she wanted to learn the status of a personal injury claim pursued by Hynes, at the time of her death, for injuries her husband had sustained in a nursing home accident.

Respondent failed to communicate with Dynarski about his activities on her behalf and failed to reply to her inquiries. He timely prepared and filed the required accounting, but only after repeated urging and reminders from Dynarski. He also attempted to arrange for her to have access to Hynes' home, but was unsuccessful.

There were "multiple" emails between Dynarski and respondent. Respondent failed to keep track of his time spent on the matter or a "careful record" of their contacts. On occasion, several weeks passed before respondent replied to Dynarski's inquiries.

The attorney/client relationship between respondent and Dynarski began to deteriorate in May 2009, finally ending in August 2009. Dynarski retained new counsel and respondent returned her file.

The complaint charged respondent with violating RPC 1.4(b).

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 conceded, in the agreement in lieu of discipline, that he failed to properly reply to his client's requests for information about the estate proceedings, a violation of RPC 1.4(b).

Typically, attorneys who fail to adequately communicate with their clients are admonished. See, e.g., In the Matter of David A. Tykulsker, DRB 12-040 (April 24, 2012) (attorney failed to inform his client that the court had denied a motion to vacate an order dismissing the client's claim; the client did not learn of this development until he called the attorney twelve days later to inquire about the outcome; the attorney also failed to comply with the client's multiple requests for a copy of the court's orders until several months later, when the

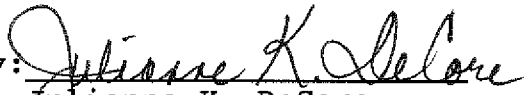
client appeared at his office to obtain them); In the Matter of Neil George Duffy, III, DRB 09-311 (March 10, 2010) (attorney orally informed client that he would no longer represent him but thereafter failed to dispel the client's continuing belief that he was represented by the attorney, as evidenced by the client's sporadic telephone calls to the attorney inquiring about the status of his case); In the Matter of Shelley A. Weinberg, DRB 09-101 (June 25, 2009) (for a one-year period, attorney failed to inform his client about important aspects of a Social Security disability matter; the attorney erroneously advised the client that his claim had been denied and then failed to explain his error; he also failed to notify the client that he had terminated the representation and had retained the "excess" portion of his fee while exploring avenues of appeal; no disciplinary infractions since the attorney's 1988 admission to the bar); and In the Matter of Marc A. Futterweit, DRB 08-356 (March 20, 2009) (attorney failed to keep his client informed about the case and failed to reply to the client's requests for information about the matter; the attorney admitted his wrongdoing and had no disciplinary infractions since his admission to the bar in 1989).

Respondent's conduct fits squarely within the admonition cases. There is, however, one other aspect of this case that must be considered. Respondent failed to file an answer to the complaint, allowing this matter to proceed as a default, thereby violating RPC 8.1(b). In a default matter, the appropriate discipline for the 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).

In this case, we see no reason for us to deviate from the established practice to enhance the otherwise appropriate admonition to a reprimand.

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

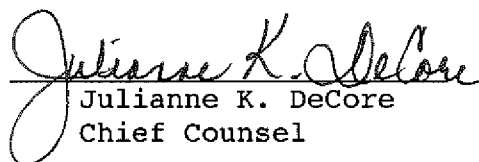
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Terence John Dahl
Docket No. DRB 12-108

Decided: August 20, 2012

Disposition: Reprimand

Members	Disbar	Three-month suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman			X			
Frost			X			
Baugh			X			
Clark			X			
Doremus			X			
Gallipoli			X			
Wissinger			X			
Yamner			X			
Zmirich			X			
Total:			9			


Julianne K. DeCore
Chief Counsel