

# DISCIPLINARY REVIEW BOARD

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September 24, 2012

Mark Neary, Clerk  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, New Jersey 08625-0962

Re: In the Matter of Gary L. Mason  
Docket No. DRB 12-176  
District Docket No. IX-2012-0005E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand or such lesser discipline as the Board may deem warranted) filed by the District IX Ethics Committee, pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion and to impose a reprimand for respondent's violation of RPC 3.4(g) (threatening to present criminal charges to obtain an improper advantage in a civil matter).

Specifically, after the purchaser of respondent's client's assets (which included a pharmacy and gift shop) had allegedly defaulted on the note, an issue arose regarding possession of the inventory. On March 22, 2010, respondent wrote a letter to counsel for the purchaser, notifying him that respondent's client had made arrangements to take possession of the remaining inventory. That letter also stated, in part: "If your client places a finger on any piece of inventory we shall file criminal charges and pursue all civil remedies for adulteration of my client's collateral."

Although respondent did not communicate his threat to file criminal charges directly to the purchaser, but rather to the purchaser's attorney, we find no reason why RPC 3.4(g) should not apply. The goal of respondent was the same: to threaten criminal charges to obtain an improper advantage in a civil matter. The obligation of the attorney receiving the threat, on behalf of the client, is the same: to keep the client informed about the status of the client's case, which would require the client's attorney to pass along the threat to the client so that they could discuss how to proceed.

Although admonitions have been imposed for violations of RPC 3.4(g), respondent has a disciplinary history, which demonstrates what appears to be his disrespectful treatment of other attorneys and his penchant for writing intemperate letters. In a previous ethics matter, for example, he wrote a letter to the former client's new lawyer, stating that his former client's activities were "something into which the SEC will certainly wish to sink its teeth." In the Matter of Gary L. Mason, DRB 08-113 (September 9, 2008) (slip op. at 6). The letter continued with statements such as the client's looking forward to "a long vacation at the federal penitentiary" and that "his incarceration will be long overdue." Ibid.

To be sure, respondent was not charged with having violated RPC 3.4(g) in that matter. Nevertheless, his conduct reflects an intemperance that taints his professionalism and must be stopped. Thus, in light of his disciplinary history, and his pattern of mistreating clients and attorneys, a reprimand is the appropriate measure of discipline.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated March 16, 2012;
2. Stipulation of discipline by consent, dated May 16, 2012;

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3. Affidavit of consent, dated March 22, 2012;
4. Ethics history, dated September 21, 2012.

Very truly yours,



Julianne K. DeCore  
Chief Counsel

JKD/paa  
encls.

cc: Louis Pashman, Chair, Disciplinary Review Board  
(w/o encls.)  
Charles Centinaro, Director, Office of Attorney Ethics  
(w/o encls.)  
James D. Carton, Chair, District IX Ethics Committee  
(w/o encls.)  
Kathleen A. Sheedy, Secretary, District IX Ethics Committee  
(w/o encls.)  
Gary L. Mason, Respondent  
(w/o encls.)