

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 11-367
District Docket No. IIB-11-029E

IN THE MATTER OF
GLEB L. KARDASH
AN ATTORNEY AT LAW

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Decision

Decided: March 13, 2012

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). It arose out of respondent's retention as counsel in a matrimonial matter. The ethics complaint charged respondent with violating RPC 1.5(b) (failure to provide a written fee agreement) and R. 5:3-5(a) (attorney fees and retainer agreements in civil family actions). The complaint was amended to further charge respondent with violating RPC 8.1(b) (failure

to cooperate with disciplinary authorities). For the reasons expressed below, we determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 2001. He has no history of discipline.

We originally considered this matter at our October 15, 2009 session, as a default. On October 5, 2009, the Office of Board Counsel received respondent's motion to vacate the default. Respondent asserted that he had not filed an answer to the complaint because he had not received a copy. He filed an unverified, non-conforming answer with his motion, in which he denied the alleged misconduct. We granted respondent's motion and remanded the case to the DEC for a hearing.

Respondent never filed a conforming answer. Therefore, in July 2011, the DEC secretary sent a letter to respondent's office address, 30 Hillsborough Court, Rockaway, New Jersey 07866, by regular mail, advising him that, if he did not file a verified answer to the complaint within five days, the allegations would be deemed admitted and the record would be certified to us for the imposition of discipline.¹ The letter

¹ The record does not explain the passage of almost two years between the DEC secretary's letter to respondent and our letter vacating the default.

also served to amend the complaint to charge respondent with violating RPC 8.1(b) for failing to file an answer.² Respondent did not file a conforming answer.

The facts are as follows:

In October 2004, respondent was retained to represent Svetlana Kolesnikova in a matrimonial matter. In connection with his representation of Kolesnikova, respondent prepared a two-paragraph letter fee agreement that did not "properly set forth" the basis or rate of the fee to be charged. Among other deficiencies, it did not attach the Statement of Clients' Rights and Responsibilities in Civil Family Actions, in the form required by R. 5:3-5(a), and as set forth in Appendix XVIII. The letter fee agreement did not fulfill the purposes of RPC 1.5(b) and R. 5:3-5(a), in that it did not enable Kolesnikova to understand the terms of her financial responsibility and the scope of respondent's representation.

The complaint charged respondent with violating RPC 1.5(b) and R. 5:3-5(a). As noted above, the "five-day letter" served to amend the complaint to also charge respondent with violating RPC 8.1(b).

² The complaint had been amended previously to charge respondent with violating RPC 8.1(b), by way of the five-day letter, when this matter was originally certified to us in 2009.

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 failed to provide the written fee agreement required by R. 5:3-5(a), thereby violating RPC 1.5(b). In the past, that conduct has led to an admonition. See, e.g., In the Matter of David W. Boyer, DRB 07-032 (March 28, 2007) (failure to have a written fee agreement with an estate client); In the Matter of Louis W. Childress, Jr., DRB 02-395 (January 6, 2003), (failure to provide a written fee agreement in real estate matters); In the Matter of Nedum C. Ejioqu, DRB 02-187 (July 23, 2002) (failure to provide a written retainer agreement in a personal injury matter); In the Matter of Richard M. Roberts, DRB 02-148 (July 8, 2002), (failure to provide a written retainer agreement in a criminal matter); and In the Matter of Joseph Taboada, Jr., DRB 01-453 (March 15, 2002) (failure to provide a written fee agreement in an immigration matter).

What warrants more serious discipline than an admonition is respondent's failure to file an answer to the complaint, in violation of RPC 8.1(b). In default matters, the discipline 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). Indeed, although respondent has had two "bites at the apple," he has let this matter again proceed as a default. We, therefore, determine that the otherwise appropriate degree of discipline for his violation of RPC 1.5(a), an admonition, must be increased 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

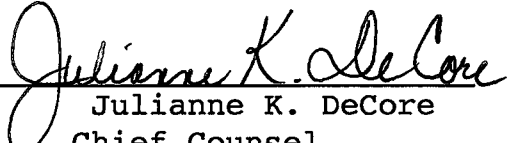
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Gleb I. Kardash
Docket No. DRB 11-367

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Disposition: Reprimand

| Members | Disbar | Suspension | Reprimand | Disqualified | Did not participate |
|----------------|--------|------------|-----------|--------------|---------------------|
| Pashman | | | X | | |
| Frost | | | X | | |
| Baugh | | | X | | |
| Clark | | | X | | |
| Doremus | | | X | | |
| Wissinger | | | X | | |
| Yamner | | | X | | |
| Zmirich | | | X | | |
| Total: | | | 8 | | |


Julianne K. DeCore
Chief Counsel