

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 09-207 and 09-208
District Docket Nos. XII-2007-
0036E and XII-2008-0052E

IN THE MATTERS OF :
:
CHRISTOPHER D. BOYMAN :
:
AN ATTORNEY AT LAW :
:

Decision

Decided: December 10, 2009

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

These matters came before us on certified records from the
District XII Ethics Committee ("DEC"), following respondent's
failure to answer the complaints. R. 1:20-4(f). The complaint
in the matter under DRB 09-207 charged respondent with violating
RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC
1.4(b), mistakenly cited as RPC 1.4(d) (failure to communicate
with the client), and RPC 8.1(b) (failure to cooperate with
disciplinary authorities). The complaint in the matter under
DRB 09-208 charged respondent with violating RPC 1.1(a), RPC

1.3, RPC 1.15(b) (failure to promptly turn over property that a client is entitled to receive), RPC 1.8(a) (business transaction with a client without following the safeguards set out in the rule), and RPC 8.1(b).

We determine to impose a single censure for both matters.

Respondent was admitted to the New Jersey bar in 1987. He has no history of discipline. Respondent has been ineligible to practice law, since September 2008, for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection.

DRB 09-207 – District Docket No. XII-2007-0036E – The Pluchino Matter

Service of process was proper. On January 8, 2009, the DEC secretary mailed a copy of the complaint to respondent by certified and regular mail to 216 North Avenue, East, Cranford, New Jersey 07016, respondent's office address. The certified mail was returned as unclaimed. The regular mail was not returned. Respondent did not file an answer to the complaint.

On May 14, 2009, the DEC secretary sent a second letter to the above address, by regular and certified mail. The letter advised respondent that, if he did not file an answer within

five days of the date of the letter, the charges 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 his failure to file an answer. The certified mail receipt indicates delivery on May 18, 2009. The signature appears to be that of respondent. The regular mail was not returned. Respondent did not file an answer to the complaint.

In September 2005, Carl Pluchino retained respondent to assist him in obtaining trademark protection from the United States Patent and Trademark Office ("PTO") for his martial arts logo. Although respondent filed an initial application with the PTO, he failed to follow through to perfect the application. Pluchino made numerous attempts to contact respondent to obtain information about his application. Respondent only rarely communicated with him. On those occasions, respondent apologized and advised Pluchino that he had put the matter on the "back burner" due to his busy schedule. Thereafter, respondent did not attend to Pluchino's matter.

The DEC investigator attempted to contact respondent to obtain information about the grievance. Respondent failed to cooperate with the investigator.

DRB 09-208 - District Docket No. XII-2008-0052E - The Scalzo Matter

Service of process was proper. On February 2, 2009, the DEC secretary mailed a copy of the complaint by certified and regular mail to 216 North Avenue, East, Cranford, New Jersey 07016, respondent's office address. The certified mail receipt indicates delivery on February 5, 2009. The signature is that of an unidentified individual. The regular mail was not returned. Respondent did not file an answer.

On May 14, 2009, the DEC secretary sent a second letter to the above address, by certified and regular mail. The letter advised respondent that, if he did not file an answer within five days of the date of the letter, the charges 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 his failure to file an answer. The certified mail receipt indicates delivery on May 18, 2009. The signature appears to be that of respondent. The regular mail was not returned. Respondent did not file an answer.

A - Count One

In 2006, Lawrence Scalzo retained respondent in connection with two collection matters involving Scalzo's corporation. Respondent filed a complaint in one of the collection matters, but failed to take the steps necessary to obtain a default judgment, after the defendant failed to file an answer. As a result, the court dismissed the complaint. Respondent failed to take any steps to pursue the second collection matter.

Over a period of approximately eighteen months, Scalzo made numerous attempts to contact respondent to discuss his collection matters. Although respondent apologized to Scalzo and promised to pursue the cases, he failed to do so.

On March 26, 2008, Scalzo consulted with another attorney. It appears that the other attorney sought to contact respondent, by letter, to urge him to proceed on Scalzo's behalf. That effort was not successful. At some point thereafter, Scalzo contacted respondent to obtain his file so that he could retain another attorney. Respondent refused to release Scalzo's file.

By way of two letters, the DEC secretary asked respondent for information about the grievance. Respondent failed to reply to those letters.

B - Count Two

In the summer of 2006, respondent borrowed \$15,000 from Scalzo, promising to return the money within two months.¹ Respondent failed to provide Scalzo with a writing memorializing the transaction, failed to advise Scalzo to seek the advice of another attorney, and failed to obtain his informed consent to the transaction in writing.

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

Altogether, respondent was guilty of violating, in two matters, RPC 1.1(a), RPC 1.3, and RPC 8.1(b) and, in one matter, RPC 1.4(b), RPC 1.8(a), and RPC 1.15(b).²

¹ The record does not indicate if respondent repaid Scalzo.

² The complaint in the Scalzo matter charged respondent with violating RPC 1.15(b) for failing to turn over his client's file. Although this is more properly a violation of RPC 1.16(d), we nevertheless sustain the charge under RPC 1.15(b).

Usually, an admonition is imposed for a combination of gross neglect, lack of diligence, failure to communicate with the client, failure to turn over a file, and failure to cooperate with disciplinary authorities, if the attorney does not have a disciplinary record. See, e.g., In the Matter of Vera Carpenter, DRB 97-303 (November 1, 1997) (attorney failed to act diligently, failed to communicate with a client, and failed to turn over the client's file to new counsel); In the Matter of Andrew T. Brasno, DRB 99-091 (June 25, 1997) (attorney failed to turn over client's file after termination of representation and failed to comply with a lawful demand for information from a disciplinary authority); In the Matter of John J. Dudas, Jr., DRB 95-383 (November 29, 1995) (attorney failed to turn over client's file to new counsel for nearly one year after termination of the representation, failed to communicate with a client, and failed to reply to a lawful demand for information from a disciplinary authority or to comply with the district ethics committee's direction to forward the client's file to new counsel); In the Matter of Howard M. Dorian, DRB 95-216 (August 1, 1995) (attorney did not inform his client that her case had been mistakenly dismissed as settled, took no action to restore it, did not reply to her inquiries about the matter, failed to

withdraw as counsel, delayed the return of her file for almost five months, and failed to cooperate with the investigation of the grievance); and In the Matter of Richard J. Carroll, DRB 95-017 (June 26, 1995) (attorney lacked diligence in handling a personal injury action, failed to properly communicate with the client, and failed to comply with the new lawyer's numerous requests for the return of the file; the attorney also failed to reply to the grievance).

In the above cases, only one client matter was at issue. In the matters before us, two clients were harmed due to respondent's inaction in three cases. A reprimand is, therefore, a more appropriate measure of discipline for respondent's neglect, lack of diligence, failure to communicate, and failure to turn over his client's file. See, e.g., In re Wildstein, 138 N.J. 48 (1994) (reprimand for misconduct in three matters, including gross neglect, lack of diligence, and failure to communicate with clients).

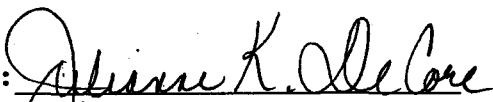
Moreover, respondent is also guilty of engaging in a conflict of interest by borrowing money from his client without following the guidelines of RPC 1.8(a). In such situations, the ordinary measure of discipline is an admonition. See, e.g., In the Matter of Frank J. Shamy, DRB 07-346 (April 15, 2008)

(attorney made small, interest-free loan to three clients, without advising them to obtain separate counsel; the attorney also completed an improper jurat; significant mitigation considered); In the Matter of April Katz, DRB 06-190 (October 5, 2006) (attorney solicited and received a loan from a matrimonial client; the attorney did not comply with the mandates of RPC 1.8(a)); and In the Matter of Frank J. Jess, DRB 96-068 (June 3, 1996) (attorney borrowed \$30,000 from client to satisfy a gambling debt; the attorney did not observe the requirements of RPC 1.8(a)).

Because of respondent's prior unblemished career of over twenty years, a reprimand would have been sufficient discipline for the combination of his infractions, but for his failure to file answers to the complaints. 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). We, thus, determine that a censure is the appropriate measure of discipline for the totality of respondent's conduct in both cases.

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

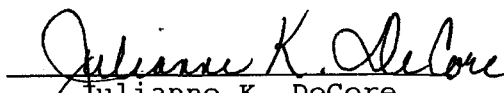
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matters of Christopher D. Boyman
Docket Nos. DRB 09-207 and DRB 09-208

Decided: December 10, 2009

Disposition: Censure

Members	Disbar	Suspension	Censure	Dismiss	Disqualified	Did not participate
Pashman			X			
Frost			X			
Baugh			X			
Clark						X
Doremus			X			
Stanton			X			
Wissinger			X			
Yamner			X			
Zmirich			X			
Total:			8			1


Julianne K. DeCore
Chief Counsel