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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 07-086  
District Docket No. XIV-07-080E

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IN THE MATTER OF  
KENNETH L. LAW a/k/a  
KENNETH D. LAW  
AN ATTORNEY AT LAW

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Decision

Argued: July 19, 2007

Decided: August 30, 2007

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Philip Touitou appeared on behalf of respondent.

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

This matter came before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-14(a), following respondent's four-month suspension in New York for mishandling two client matters. Respondent committed violations comparable to New Jersey RPC

1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to communicate with client), and RPC 1.15(d) (recordkeeping violations). The OAE recommended the imposition of a four-month suspension. We determine that the appropriate sanction is a censure.

Respondent was admitted to the New Jersey bar in 1986 and to the New York bar in 1985. Although he has no history of discipline in New Jersey, he was reprimanded in New York, in January 2004, for neglecting three matters and failing to properly withdraw from the representation in two of them.

The conduct that gave rise to the OAE's motion is as follows:

On February 24, 2005, the Departmental Disciplinary Committee for the First Judicial Department filed a Statement of Charges (the complaint), charging respondent with violations of N.Y.C.R.R. 6-101(A)(3) (neglecting a legal matter), N.Y.C.R.R. 1-102(A)(7) (conduct that adversely reflects on the lawyer's fitness as a lawyer), and N.Y.C.R.R. 9-102(e) (all special account withdrawals shall be made only to a named payee and not to cash).

On April 26, 2005, respondent filed an answer to the complaint. At the April 29, 2005 hearing, however, he withdrew his answer and admitted the charges.

On August 19, 2005, the Referee for the Departmental Disciplinary Committee of the Appellate Division of the Supreme Court of New York, First Judicial Department, recommended a four-month suspension. On February 8, 2007, the Appellate Division of the Supreme Court of New York, First Judicial Department, suspended respondent for four months, effective March 8, 2007, and conditioned his reinstatement on his adoption of office reforms to improve communications with clients, appropriate treatment for any conditions that may have impaired his ability to practice law, and the resolution of all outstanding disciplinary complaints against him.

The specific charges and underlying facts are contained in the Referee's Report:

The first Charges involved the case of a client, Brenda Carter Judge, who in 1996 retained Respondent Law to represent her in a personal injury action against the City of New York and the New York City Department of Corrections on a contingency basis. Respondent filed and served a summons and complaint on the City on or about March 22, 1996. After issue was joined, Respondent served a verified Bill of Particulars on or about June 20, 1999. Thereafter, between July, 1999 and the fall of 2004 Respondent did nothing to prosecute the case, and except for limited correspondence in March-April 2002, did not communicate with Ms. Judge (Statement of Charges, Par.4,5,6).

Respondent's inaction in prosecuting the case and failure to communicate with his client is clearly an instance of an

therefore, adopt the findings of the Appellate Division of the Supreme Court of New York, First Judicial Department.

Respondent's conduct in New York violated New Jersey RPC 1.1(a), RPC 1.3, RPC 1.4(b) and RPC 1.15(d). Furthermore, it also violated RPC 1.1(b) (pattern of neglect), when the gross neglect in these two client matters is combined with the two instances of gross neglect found in the prior matter that led to respondent's reprimand in New York. For a finding of a pattern of neglect at least three instances of neglect are required. In the Matter of Donald M. Rohan, DRB 05-062 (June 8, 2005) (slip op. at 12-16). When an attorney's instance of neglect is considered in conjunction with other instances found in prior disciplinary matters involving the attorney, a pattern emerges. In the Matter of Jeffry Nielsen, DRB 04-023 (April 29, 2004) (slip op. at 15).

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides:

The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(E) the unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that fall within the scope of subparagraphs (A) through (D). Subparagraph (E), however, applies because respondent's conduct does not merit a four-month suspension in New Jersey.

In recommending a four-month suspension, the OAE relied on five cases: In re Peluso, 156 N.J. 84 (2002) (three month-suspension for misconduct in six matters including gross neglect, pattern of neglect, failure to abide by a client's decision about the representation, lack of diligence, failure to keep a client informed about the status of the matter or to explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation, recordkeeping violations, and failure to turn over a file upon termination of the representation; no ethics history); In re Mandel, 179 N.J. 422 (2004) (three-month suspension for attorney who was retained to represent a client in connection with an insurance claim (fire loss) but failed to take any action; the attorney engaged in gross neglect, lack of diligence, failure to

communicate, and a pattern of neglect; the disciplinary matter proceeded on a default basis; the attorney had received two prior reprimands); In re Casey, 176 N.J. 215 (2003) (three-month suspension, in a default matter, for failure to file a divorce complaint or take any action in his client's behalf; the attorney was found guilty of gross neglect, failure to communicate with the client, and pattern of neglect; prior three-month suspension); In re Hintze, 171 N.J. 84 (2002) (three-month suspension for attorney who, in two matters, displayed gross neglect, lack of diligence, failure to communicate with clients, failure to safeguard property, and a pattern of neglect; the attorney defaulted on the disciplinary matter; prior reprimand); and In re Gavin, 170 N.J. 84 (2002) (six-month suspension for attorney who grossly neglected a client's lawsuit, failed to communicate with the client, failed to turn over the client's file, and engaged in lack of diligence, conduct prejudicial to the administration of justice, and a pattern of neglect; two prior reprimands).

The above cases, however, are distinguishable from the current matter. Peluso encompassed six client matters, contrasted to two in this case. Mandel, Casey, Hintze, and Gavin proceeded through the disciplinary system as defaults, unlike this case. In default matters, 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 assessing the proper degree of discipline for respondent's ethics misdeeds, we are guided by the following established precedent.

Recordkeeping violations, without more, generally merit admonitions. See In the Matter of Jeff E. Thakker, DRB 04-258 (October 7, 2004) (admonition for failure to maintain an attorney trust account in a New Jersey banking institution); In the Matter of Arthur G. D'Alessandro, DRB 01-247 (June 17, 2002) (admonition for numerous recordkeeping deficiencies); In the Matter of Marc D'Arienzo, DRB 00-101 (June 29, 2001) (admonition for failure to use trust account and to maintain required receipts and disbursements journals, as well as client ledger cards); In the Matter of Christopher J. O'Rourke, DRB 00-069 (December 7, 2000) (admonition imposed on attorney who did not keep receipts and disbursements journals, as well as a separate ledger book for all trust account transactions); and In the Matter of Arthur N. Field, DRB 99-142 (July 19, 1999) (admonition for attorney who did not maintain an attorney trust account in a New Jersey banking institution).

For gross neglect, lack of diligence, failure to communicate with clients, and a pattern of neglect, the discipline is generally a reprimand. See In re Weiss, 173 N.J. 323 (2002) (reprimand for lack of diligence, gross neglect, and a pattern of neglect); In re Balint, 170 N.J. 198 (2001) (reprimand for attorney who, in three client matters, exhibited lack of diligence, gross neglect, a pattern of neglect, failure to communicate with clients, and failure to expedite litigation); and In re Bennett, 164 N.J. 340 (2000) (reprimand for lack of diligence, failure to communicate in a number of cases handled on behalf of an insurance company, gross neglect, and a pattern of neglect; two prior private reprimands).

Here, respondent's conduct involved not only the above offenses, but also recordkeeping violations. In addition, his disciplinary record includes a prior reprimand. Hence, a reprimand would be insufficient to address the totality of his conduct and the aggravating factor represented by his prior discipline. We, therefore, determine that a censure is the appropriate sanction in this case.

Vice-Chair Pashman and Member Boylan did not participate.

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  
William J. O'Shaughnessy, Esq.

By: Julianne K. DeCore  
Julianne K. DeCore  
Chief Counsel

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

In the Matter of Kenneth L. Law a/k/a Kenneth D. Law  
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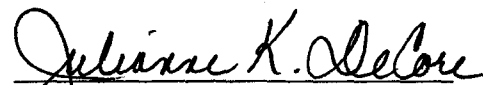
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Argued: July 19, 2007

Decided: August 30, 2007

Disposition: Censure

Members	Disbar	Suspension	Censure	Dismiss	Disqualified	Did not participate
O' Shaughnessy			X			
Pashman						X
Baugh			X			
Boylan						X
Frost			X			
Lolla			X			
Neuwirth			X			
Stanton			X			
Wissinger			X			
<b>Total:</b>			7			2

  
Julianne K. DeCore  
Chief Counsel