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SUPREME COURT OF NEW JERSEY

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November 25, 2008

Stephen W. Townsend, Clerk  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, New Jersey 08625

**RE: In the Matter of Christopher L. Musmanno**  
**Docket No. DRB 08-259**  
**District Docket No. XIV-07-086E**

Dear Mr. Townsend:

The Disciplinary Review Board reviewed the motion for discipline by consent (censure or such lesser discipline as the Board may determine is warranted), filed by the Office of Attorney Ethics ("OAE") pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a censure is the appropriate discipline for respondent's violations of RPC 8.1(a) (false statement of a material fact to a disciplinary authority) and RPC 8.4(b) (commission of a criminal act that adversely reflects on the lawyer's honesty, trustworthiness and fitness as a lawyer).

Specifically, on January 5, 2007, respondent was stopped by a police officer and charged with making an improper left turn. In an effort to avoid a ticket, respondent showed the officer a Union County Sheriff's Office card and misrepresented that he was employed by the Union County's Prosecutor's Office. Upon further questioning by the officer, respondent admitted that he did not work for the Prosecutor's Office.

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Respondent received a ticket for an improper left turn and was charged with impersonating a law enforcement officer, a violation of N.J.S.A. 2C:28-8, and obstruction of the administration of law, a violation of N.J.S.A. 2C:29-1(b). Ultimately, with the cooperation of the arresting officer and the municipal prosecutor, the charges were downgraded to a disorderly persons' offense.

When contacted by the OAE for an explanation of his conduct, respondent initially told the OAE, in a letter dated July 13, 2007, that the charges had been dismissed by the municipal prosecutor and that there had been a "miscommunication" between him and the arresting officer. That was untrue.

Respondent has since admitted to the OAE that he lied to the police officer to avoid getting a ticket and that he was not truthful with the OAE, in the hope that the ethics matter would be dropped.

Attorneys who have committed offenses similar to respondent's have received discipline ranging from a reprimand to a three-month suspension. See, e.g., In re Kapur, 189 N.J. 193 (2007) (censure for attorney who traded places with his son, who had been involved in a car accident; the attorney falsely claimed that he was the driver of the car); In re Murphy, 188 N.J. 584 (2006) (reprimand imposed on attorney who, on two occasions, used his brother's driver's license when stopped by the police for driving while intoxicated; the attorney also failed to cooperate with the OAE's investigation); In re Gonzalez, 142 N.J. 482 (1995) (reprimand for attorney found guilty of the disorderly persons' offense of obstructing the administration of justice for misrepresenting his identity to a police officer who stopped his vehicle; the attorney used his cousin's driver's license, instead of his); and In re Poreda, 139 N.J. 435 (1994) (three-month suspension for attorney who did not possess a valid insurance identification card when stopped by the police and who, at the court hearing, presented an insurance card to the police officer showing that the car was insured on the date the citation was issued; the attorney had forged the card; he pleaded guilty to forgery and/or possession of a forged insurance identification card).

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The Board concluded that respondent's conduct was not as serious as that of Poreda, who forged an insurance card, and Kapur, who embarked on a premeditated course to mislead the police and the prosecutor that he was the driver of the car, rather than his son. Two months went by before Kapur confessed his wrongdoing.

Had respondent's conduct been confined to his misrepresentation to the police officer, the Board would have determined to impose a reprimand. But respondent also made a misrepresentation to the OAE. Although his misrepresentations to the police officer could have been the result of impulse, that is, a quick reaction prompted by his fear of prosecution, his lie to the OAE was the product of reflection. He made a conscious, deliberate decision to mislead the OAE that the charges against him had been dismissed and that there had been a "miscommunication" between him and the police officer. Therefore, the Board found that a reprimand is insufficient discipline for respondent's total violations and that a censure is more in keeping with the extent of the offenses committed. In the Board's view, respondent's twenty-year stainless record is not sufficient to warrant downgrading the censure to a reprimand, particularly because he was moved by personal interest.

The following documents are enclosed:

1. Notice of motion for discipline by consent, dated June 27, 2008.
2. Stipulation of discipline by consent, dated June 25, 2008.

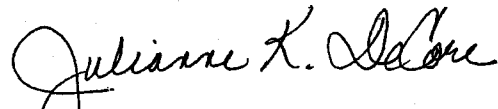
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3. Affidavit of discipline by consent, dated June 24, 2008.
4. Ethics History, dated November 24, 2008.

Very truly yours,



Julianne K. DeCore  
Chief Counsel

/tk

c: Louis Pashman, Chair  
Disciplinary Review Board  
David E. Johnson, Jr., Director  
Office of Attorney Ethics  
Janice Richter, Deputy Ethics Counsel  
Office of Attorney Ethics  
Christopher L. Musmanno, respondent