

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 07-077  
District Docket No. XIV-04-583E

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IN THE MATTER OF  
SCOTT L. WILLIAMS  
AN ATTORNEY AT LAW

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Decision  
Default [R. 1:20-4(f)]

Decided: August 3, 2007

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

This matter came before us on a certification of default  
filed by the Office of Attorney Ethics (OAE), pursuant to R.  
1:20-4(f). The complaint charged that respondent violated RPC  
8.1(b) and R. 1:20-3(g)(4) (failure to cooperate with  
disciplinary authorities). We determine to impose a censure.

Respondent was admitted to the New Jersey and Pennsylvania  
bars in 1994. At the relevant time, he maintained a law office  
in Cherry Hill, New Jersey.

In a prior default matter, respondent was reprimanded for accepting a fee to represent a client in two matters, and then failing to perform any services on her behalf, resulting in the dismissal of the cases. Altogether, respondent's violations included gross neglect, lack of diligence, failure to communicate with the client, failure to expedite litigation, failure to surrender papers and property to which the client is entitled, failure to return an unearned fee, and failure to cooperate with disciplinary authorities. In re Williams, 188 N.J. 254 (2006).

Service of process was proper in this matter. On January 24, 2006, the OAE mailed a copy of the complaint to respondent's home address, 507 Oak Crest Lane, Wallingford, Pennsylvania, by regular and certified mail. The certified mail receipt was returned signed by S. Williams. The regular mail was not returned.

Respondent did not file an answer. On February 28, 2007, the OAE sent him a second letter, by regular and certified mail, advising him that, if he did not file an answer within five days, the allegations of the complaint would be deemed admitted, and the matter would be certified directly to us for the imposition of discipline. The certified mail receipt was signed by Robert Williams. The regular mail was not returned. As of the

date of the certification of the record, March 13, 2007, respondent had not filed an answer to the complaint.

The complaint alleged that, on November 17, 2004, PNC Bank notified the OAE that respondent's trust account check number 1062, in the amount of \$80, had caused a \$22.87 overdraft in his trust account. By letter dated November 22, 2004, the OAE requested that respondent provide a written explanation for the overdraft.<sup>1</sup> The letter was forwarded to respondent at 911 Kings Highway South, Cherry Hill, New Jersey, the address listed in the New Jersey Lawyers' Diary and on the trust overdraft notice.

Two days later, on November 24, 2004, the OAE received a letter from attorney Frederic Bor, stating that respondent no longer worked for him. Bor provided the OAE with respondent's home address in Wallingford, Pennsylvania.

Thereafter, the OAE sent letters to the Wallingford address on December 27 and January 25, 2005. Respondent did not reply to either letter. Therefore, on February 16, 2005, the OAE scheduled a February 24, 2005 demand audit of respondent's books and records.

The day before the scheduled audit, respondent left a message on the OAE's answering machine requesting an adjournment

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<sup>1</sup> Upon inquiry to the OAE, Office of Board Counsel learned that the OAE investigation had revealed no evidence of knowing misappropriation.

to enable him to obtain financial records from the bank. On February 24, 2005, the OAE telephoned respondent and rescheduled the audit to March 2, 2005. Respondent failed to appear at the demand audit, however. As a result, on September 1, 2005, an OAE investigator visited respondent's home. At that time, he stressed to respondent's father the importance that respondent contact the OAE to provide an explanation for the overdraft in his trust account.

On the following day, the investigator received a "fax" from respondent that included an answer to a complaint that had been filed against him under a different docket number. Respondent's answer did not relate to the overdraft.

On September 2, 2005, the OAE investigator wrote to respondent, advising him that he was required to reply to the OAE's original inquiry and that he had an obligation to cooperate with the OAE.<sup>2</sup> Respondent did not communicate further with the OAE.

Following a review of the record, we find that the facts recited in the complaint support the charges of unethical conduct. Because of respondent's failure to file an answer, the

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<sup>2</sup> Although the complaint recited that all correspondence had been sent to respondent by both regular and certified mail, it did not indicate whether either the certified mail receipt or the regular mail had been returned.

allegations of the complaint are deemed admitted. R. 1:20-4. Indeed, despite having been given ample opportunity, respondent failed to cooperate with the OAE's investigation of his trust account overdraft, thereby violating RPC 8.1(b).

Ordinarily, admonitions are imposed for failure to cooperate with disciplinary authorities, if the attorney does not have an ethics history. In the Matter of Kevin R. Shannon, DRB 04-512 (June 22, 2004) (admonition for attorney who did not promptly reply to the DEC investigator's requests for information about the grievance); In the Matter of Keith O. D. Moses, DRB 02-248 (October 23, 2002) (admonition for failure to reply to DEC's requests for information about two grievances); In the Matter of Jon Steiger, DRB 02-199 (July 22, 2002) (admonition for failure to reply to the DEC's numerous communications regarding a grievance); In the Matter of Grafton E. Beckles, II, DRB 01-395 (December 21, 2001) (admonition for attorney who did not cooperate with disciplinary authorities during the investigation and hearing of a grievance); In the Matter of Andrew T. Brasno, DRB 97-091 (June 25, 1997) (admonition for failure to reply to the ethics grievance and failure to turn over a client's file); and In the Matter of Mark D. Cubberley, DRB 96-090 (April 19, 1996) (admonition for

failure to reply to the ethics investigator's requests for information about the grievance).

If the attorney has been disciplined before, but the attorney's ethics record is not serious, then reprimands have been imposed. See, e.g., In re Wood, 175 N.J. 586 (2003) (reprimand for failure to cooperate with disciplinary authorities; the attorney had received an admonition for similar conduct); In re DeBosh, 174 N.J. 336 (2002) (in addition to violating RPC 8.1(b), the attorney had a prior three-month suspension); and In re Williamson, 152 N.J. 489 (1998) (reprimand for failure to cooperate with disciplinary authorities; prior private reprimand for failure to carry out a contract of employment with a client in a matrimonial matter and failure to surrender the client's file to a new attorney).

Although the sole charge against respondent is that he failed to cooperate with the OAE investigation, he has an ethics history, a prior reprimand, which also proceeded as a default. At a minimum, thus, he should receive a reprimand for that charge alone.

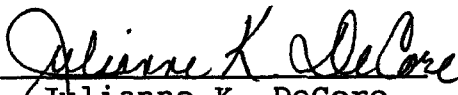
But there is another aspect that we must consider in fashioning the appropriate discipline for this respondent. He allowed this matter to proceed on a default basis by not filing an answer to the formal ethics complaint. In default matters, the discipline for the found ethics violations is enhanced to 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, therefore, determine that respondent should be censured.

Chair O'Shaughnessy 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  
Louis Pashman, Vice-Chair

By:   
Julianne K. DeCore  
Chief Counsel

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

In the Matter of Scott L. Williams  
Docket No. DRB 07-077

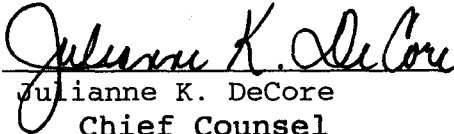
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Decided: August 3, 2007

Disposition: Censure

Members	Suspension	Censure	Admonition	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>		8			1

  
Julianne K. DeCore  
Chief Counsel