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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 06-156  
District Docket No. VI-05-024E

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IN THE MATTER OF :  
 :  
JAMES J. GALLO :  
 :  
AN ATTORNEY AT LAW :  
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Decision  
Default [R. 1:20-4(f)]

Decided: August 15, 2006

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 District VI Ethics Committee ("DEC") pursuant to R.  
1:20-4(f).

Respondent's sole violation in this matter was his failure to  
cooperate with the DEC's investigation. For the reasons expressed  
below we determine that a one-year suspension is warranted.

Respondent was admitted to the New Jersey bar in 1978. At  
the relevant time, he maintained a law practice in Jersey City,  
New Jersey.

In 1990, respondent was suspended for three months for recordkeeping violations that led to the negligent misappropriation of client trust funds. In re Gallo, 117 N.J. 365 (1990). Recently, effective April 21, 2006, respondent was suspended for six months in a default case, for failing to file a workers' compensation claim and doing nothing to advance the claim for two years, thereby allowing the statute of limitations to expire. Respondent also failed to reply to his client's requests for information, failed to release the file, and failed to cooperate with the DEC investigation. After the Court issued an Order to Show Cause in this matter, respondent informally requested an adjournment, which the Court denied. Thereafter, he failed to appear on the return date of the Order to Show Cause. In re Gallo, 186 N.J. 247 (2006).

We recently determined to impose a one-year consecutive suspension for respondent's misconduct in three matters. There, he engaged in gross neglect and a pattern of neglect by failing to file an appeal in one matter, failing to file a divorce petition in another matter, and failing to seek a reduction of child support in the third matter. Respondent also failed to communicate with clients in two of the matters, failed to turn over a file to the client, and failed to cooperate with disciplinary authorities.

In the Matter of James J. Gallo, DRB 06-098 (July 19, 2006). That matter is awaiting Supreme Court review.

Service of process was proper. On February 15, 2006, the DEC mailed a copy of the complaint to respondent by regular and certified mail, return receipt requested, at 618 Newark Avenue, Jersey City, New Jersey 07306. Although the certified mail was returned marked unclaimed, the regular mail was not returned. Respondent did not file an answer.

On April 12, 2006, the DEC sent a second letter to the same address, by regular and certified mail return receipt requested. The letter informed respondent that, if he did not file an answer within five days, the matter would be certified directly to us for the imposition of discipline, and the complaint would be amended to include a violation of RPC 8.1(b) (failure to reply to a lawful demand for information from a disciplinary authority). The certified mail was returned marked unclaimed. The regular mail was not returned. As of the date of the record's certification, May 12, 2006, respondent had not filed an answer to the complaint.

The complaint charged respondent with having violated R. 1:20-3(g)(3) (duty to cooperate in a disciplinary investigation), which is more properly a violation of RPC 8.1(b) (failure to comply with reasonable requests for information from a disciplinary authority).

In December 2000, Miguel Dominguez, respondent's client in an unrelated custody case, consulted with respondent in connection with a workers' compensation claim against his employer. The DEC investigator determined that respondent had not engaged in unethical conduct vis-à-vis Dominguez because there was no attorney/client relationship between the two as to the workers' compensation matter.

Respondent, however, failed to cooperate with the ethics investigation. The DEC investigator wrote to respondent on June 29, July 21, and August 25, 2005, requesting a reply to the Dominguez grievance. The investigator also left numerous telephone messages with respondent's secretary, indicating that it was imperative for respondent to return his calls. Respondent did not reply to these requests for information.

In a chance meeting in court, the investigator insisted that respondent discuss Dominguez's grievance with him. Respondent provided the investigator with a verbal reply to the grievance and assured him that he would "follow up" their conversation with a written response. Respondent, however, failed to do so.

The DEC determined that there was no attorney/client relationship between respondent and Dominguez in connection with Dominguez's workers' compensation issue. Thus, the DEC did not find any ethics violations in that matter. Respondent, however,

failed to cooperate with the DEC investigation by failing to reply to the investigator's letters and telephone calls, thereby violating RPC 8.1(b).

The complaint contains sufficient facts to support a finding of unethical conduct. Because of respondent's failure to file an answer to the complaint, the allegations are deemed admitted. R. 1:20-4(f).

Ordinarily, admonitions are imposed for failure to cooperate with disciplinary authorities, if the attorney does not have an ethics history. See, e.g., 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 the 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 district ethics committee's numerous communications regarding a grievance); In the Matter of Grafton E. Beckles, II, Docket No. 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, Docket No. 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, Docket No. DRB 96-090 (April 19, 1996) (admonition for failure to reply to the ethics investigator's requests for information about the grievance). But see In re Vedatsky, 138 N.J. 173 (1994) (reprimand for failure to cooperate with the district ethics committee and the Disciplinary Review Board; the latter lack of cooperation stemmed from the attorney's failure to file an answer to the formal ethics complaint); and In re Macias, 121 N.J. 243 (1990) (reprimand for failure to cooperate with the Office of Attorney Ethics ("OAE"); the attorney ignored six letters and numerous phone calls from the OAE requesting a certified explanation of how he had corrected thirteen recordkeeping deficiencies noted during a random audit; the attorney also failed to file an answer to the complaint).

Where attorneys have been disciplined before, but their ethics records are not serious, the Court has imposed reprimands. See, e.g., In re Wood, 175 N.J. 586 (2003) (reprimand for failure to cooperate with disciplinary authorities; the attorney had been admonished for similar conduct); 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 this respondent was guilty only of failing to cooperate with the DEC investigation, he has a serious ethics history: a three-month suspension, a six-month suspension, and, currently pending with the Court, a one-year suspension. Moreover, this is respondent's third default. We know of no reason why respondent has not participated in these three ethics matters. We, therefore, conclude that respondent does not value his license to practice law. Because a reprimand is not sufficient discipline for continued contempt of the disciplinary system, we conclude that a suspension is warranted.

The Court has imposed suspensions in defaults involving a single ethics violations, coupled with a significant ethics history. See, e.g., In re Dudas, 167 N.J. 4 (2001) (six-month suspension for practicing while ineligible; ethics history included an admonition, a three-month and a six-month suspension); In re McClure, 182 N.J. 312 (2005) (one-year suspension for failure to comply with R. 1:20-20 (requirements for suspended attorneys); ethics history included an admonition and two six-month suspensions); In re Mandle, 180 N.J. 158 (2004) (one-year suspension for failure to comply with R. 1:20-20; ethics history included three reprimands, a temporary suspension, and two three-month suspensions); and In re Brantley, 171 N.J. 81 (2002) (two-year suspension for making a false or misleading statement to a

tribunal; ethics history included three private reprimands, a reprimand, a three-month suspension, and a one-year suspension).

Under the circumstances of this third default by respondent, we determine that a one-year suspension, consecutive to his suspension in DRB 06-098, is warranted.

Vice-Chair Pashman did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Disciplinary Review Board  
William J. O'Shaughnessy, Chair

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 James J. Gallo  
Docket No. DRB 06-156

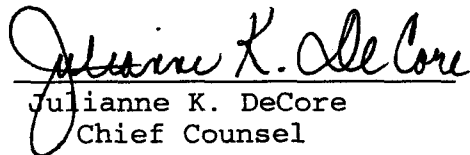
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Decided: August 15, 2006

Disposition: One-year suspension

Members	One-year Suspension	Reprimand	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