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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 04-429  
District Docket No. VC-03-040E

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IN THE MATTER OF  
DANIEL ELLIS  
AN ATTORNEY AT LAW

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

Decided: March 15, 2005

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

Pursuant to R. 1:20-4(f), the District VC Ethics Committee  
("DEC") certified the record in this matter directly to us for  
the imposition of discipline, following respondent's failure to  
file an answer to the ethics complaint.

Respondent was admitted to the New Jersey bar in 1974. On  
May 11, 1999, respondent received a reprimand for negligent  
misappropriation of client trust funds and failure to maintain  
attorney trust account records, in violation of R. 1:21-6 and  
RPC 1.15(d). In re Ellis, 158 N.J. 255 (1999). He received a  
reprimand by consent on September 26, 2000, for practicing law

from September 1998 through January 1999, at a time when he was ineligible to practice law by virtue of his non-payment of the annual assessment to the New Jersey Lawyers' Fund for Client Protection ("CPF"). After he was restored to the active list, he again became ineligible and practiced law during that period. In re Ellis, 165 N.J. 493 (2000). In addition, on May 22, 2003, respondent consented to a temporary suspension until the resolution of all grievances against him.

In March 2001, Yaasmyn Fula retained respondent to represent her in the purchase of real estate located in Montclair. In October 2002, during an attempt to sell the property, Fula discovered that respondent had failed to discharge the seller's mortgages on the property. Thereafter, Fula retained another attorney, who wrote to respondent on October 11, 2002, about the outstanding mortgages.

According to the complaint, respondent's failure to discharge the mortgage violated RPC 1.3. Furthermore, the complaint states, respondent failed to communicate with the client, a violation of RPC 1.4.

The second count of the complaint alleges that respondent failed to cooperate with ethics authorities in the investigation of the grievance, a violation of RPC 8.1(b), mistakenly referred to as RPC 120-3 (3) and (4). According to the investigative

report, made a part of the record before us, respondent failed to reply to the DEC's several requests for information about the matter or to otherwise cooperate with its investigation.

On June 16, 2004, the DEC sent a copy of the complaint to respondent's last known address at 28 North Willow Street, Montclair, New Jersey 07042, by certified and regular mail.

The certified mail was returned by the post office marked "unclaimed." The regular mail was not returned.

On August 30, 2004, a second letter was sent to respondent at the above address, by certified and regular mail, advising him that, if he did not file an answer to the complaint within five days, the record would be certified directly to us for the imposition of discipline. The certified mail envelope was returned marked "unclaimed." The regular mail was returned marked "undeliverable as addressed, unable to forward."

On September 21, 2004, the DEC sent another "five-day" letter to respondent, this time to a new address (46 Cumberland Avenue, Verona, New Jersey 07744), furnished by the Office of Attorney Ethics ("OAE"). This address is listed on the attorney registration records as respondent's home address. The letter was sent by certified and regular mail. The certified mail was returned marked "undeliverable as addressed, unable to forward." The regular mail was returned marked "attempted unknown."

On October 11, 2004, notice of the complaint was made by publication in The New Jersey Law Journal and The Star Ledger.

Respondent did not file an answer to the complaint.

Service of process was properly made in this matter. The Verona address obtained from the OAE and utilized by the DEC thereafter was the most current address for respondent at the time, as contained in the OAE's attorney registration system. Moreover, as a precaution, service of process was made by publication.

So, too, our Office of Board Counsel ("OBC") sent notice of these default proceedings to respondent at an address that he provided to us in a November 2004 default matter, which we remanded. For unknown reasons, respondent did not contact the OBC in this matter or file a motion to vacate the default.

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 allegations of the complaint are deemed admitted. R. 1:20-4(f).

Respondent represented Fula in a real estate transaction, and failed to discharge the seller's mortgages of record for one year thereafter. His conduct violated RPC 1.3. So, too, respondent failed to communicate with Fula during that time, in violation of RPC 1.4(a).

Finally, respondent failed to reply to the investigator's requests for information about the matter, a violation of RPC 8.1(b).

In default matters with similar violations, enhanced discipline – at least a reprimand – has been imposed. See In re Gavin, 167 N.J. 606 (2001) (reprimand for gross neglect of a post-divorce proceeding to enforce alimony order, failure to comply with requests for information, and failure to cooperate with ethics investigation; prior reprimand); In re Goodman, 165 N.J. 567 (2000) (reprimand for gross neglect of a matter for seven years by failing to file a complaint, thus causing the claim to become time-barred, failure to communicate with the client, and failure to cooperate with disciplinary authorities; prior private reprimand); In re Fleisher, 165 N.J. 501 (2000) (reprimand in a product liability case for failure to keep the client informed about the status of the matter for more than two years, lack of diligence, and failure to turn over client file to the new attorney, despite repeated requests to do so).

Where the attorney also has prior discipline, a short term of suspension has been imposed. See, e.g., In re Clemmons, 165 N.J. 477 (2001) (three-month suspension for gross neglect of a matter, lack of diligence, failure to communicate with the client, and failure to cooperate with disciplinary authorities;

prior six-month suspension); In re Davis, 163 N.J. 563 (2000) (three-month suspension for gross neglect by failure to oppose a motion for summary judgment against the client, failure to keep the client reasonably informed about the status of the matter, and failure to cooperate with disciplinary authorities; prior admonition and three-month suspension).

Here, because of respondent's past discipline — two prior reprimands — and his disregard for the disciplinary system, we determine to impose a three-month suspension, to be served upon the termination of his temporary suspension, which remains in effect to date. Member Ruth Lolla did not participate.

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

Disciplinary Review Board  
Mary J. Maudsley, 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 Daniel Ellis  
Docket No. DRB 04-429

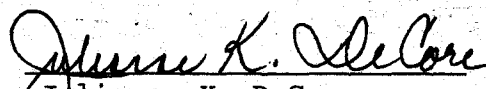
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Decided: March 15, 2005

Disposition: Three-month suspension

| Members       | Three-month Suspension | Reprimand | Admonition | Disqualified | Did not participate |
|---------------|------------------------|-----------|------------|--------------|---------------------|
| Maudsley      | X                      |           |            |              |                     |
| O'Shaughnessy | X                      |           |            |              |                     |
| Boylan        | X                      |           |            |              |                     |
| Holmes        | X                      |           |            |              |                     |
| Lolla         |                        |           |            |              | X                   |
| Pashman       | X                      |           |            |              |                     |
| Schwartz      | X                      |           |            |              |                     |
| Stanton       | X                      |           |            |              |                     |
| Wissinger     | X                      |           |            |              |                     |
| <b>Total:</b> | 8                      |           |            |              | 1                   |

  
Julianne K. DeCore  
Chief Counsel