

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 03-438

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IN THE MATTER OF                   :  
  :  
DONALD B. DEVIN                   :  
  :  
AN ATTORNEY AT LAW               :  
  :

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

Decided: April 14, 2004

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

Pursuant to R.1:20-4(f), the District X 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 formal ethics complaint.

The DEC secretary's certification states that, on October 6, 2003, the District X Ethics Committee ("DEC") secretary mailed a copy of the complaint by certified and regular mail to respondent's last known office address listed in the New Jersey Lawyer's Diary and Manual. A review of the letter accompanying the complaint reveals, however, that it was sent only by

certified mail.<sup>1</sup> The certified mail receipt was returned bearing the signature "D. Devin." On November 17, 2003, the DEC secretary sent respondent a letter advising him that, unless he filed an answer within five days, the allegations of the complaint would be deemed admitted, and the record would be certified to us for the imposition of sanction. The letter was sent to respondent's last known office address, by certified and regular mail. Neither the certified mail receipt nor the envelope was returned.<sup>2</sup> Respondent did not file an answer to the complaint.

Respondent was admitted to the New Jersey bar in 1969. He has been disciplined on a number of occasions. In October 1994, he was suspended for three months for failing to keep a client reasonably informed, making a misrepresentation to the client, and lying to a police officer. In re Devin, 138 N.J. 46 (1994). In June 1996, he was reprimanded for gross neglect, lack of diligence, failure to communicate with the client, failure to provide a written retainer agreement, failure to expedite litigation, misrepresentation about the status of the case, and failure to cooperate with ethics authorities. In re Devin, 144

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<sup>1</sup> Apparently, the secretary's letter, which was dated September 8, 2003, was originally sent to respondent on that date (by certified and regular mail) and then re-sent on October 6, 2003.

<sup>2</sup> The certification is silent as to whether the regular mail envelope was returned.

N.J. 476 (1996). In June 2002, he was reprimanded for failure to cooperate with disciplinary authorities. In re Devin, 172 N.J. 321 (2002). On that same date, he was temporarily suspended for failure to cooperate with an investigation by the Office of Attorney Ethics ("OAE"). In re Devin, 172 N.J. 320 (2002). Most recently, he received a three-month suspension in a default matter for failure to communicate with a client and failure to cooperate with disciplinary authorities during the investigation of the matter. The Court ordered that respondent not be reinstated to practice until he cooperates with the OAE's investigation. In re Devin, 176 N.J. 269 (2003). Respondent remains suspended.

On July 11, 2002, Brian and Marianne Silver filed a grievance against respondent.<sup>3</sup> By letter dated August 5, 2002, the investigator sent a copy of the grievance to respondent and asked that he submit a written reply to the allegations within ten days of his receipt of the letter. Respondent did not reply. The investigator called him on August 26, 2002, and left a voice message, asking respondent to return the call. Respondent returned the call and the investigator advised him of the Silvers' grievance and the request for a reply. He confirmed respondent's mailing address. By letter dated

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<sup>3</sup> The investigator was unable to find clear and convincing evidence of unethical conduct by respondent in his representation of the Silvers.

September 9, 2002, the investigator again sent a copy of the grievance to respondent. Again, respondent did not reply. Thereafter, respondent did not reply to a May 13, 2003, voice mail message from the investigator.

The complaint charged respondent with a violation of RPC 8.1(b) (failure to cooperate with disciplinary authorities).

Service of process was properly made. The record contains a signed certified mail receipt, indicating delivery to respondent. Respondent failed to file an answer to the complaint. Allegations are deemed admitted when the matter proceeds as a default. R.1:20-4(f)(1).

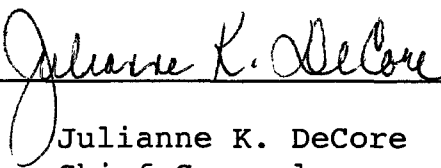
Based on the allegations in the complaint, there is no question that respondent failed to cooperate with the DEC in its investigation of this matter, in violation of RPC 8.1(b). Generally, an admonition or a reprimand is imposed for failure to cooperate with disciplinary authorities. See, e.g., In the Matter of Wesley S. Rowniewski, Docket No. DRB 01-335 (January 10, 2002), and In the Matter of Erik Shanni, Docket No. DRB 98-488 (April 21, 1999) (admonitions for violations of RPC 8.1(b)); In re Burnett-Baker, 153 N.J. 357 (1998), and In re Williamson, 152 N.J. 489 (1998) (reprimands for violations of RPC 8.1(b)). Respondent, however, has a serious ethics history consisting of two three-month suspensions, two reprimands, and a temporary

suspension. In all but one of those instances, he failed to cooperate with disciplinary authorities. In addition, at his last appearance before the Court, the Court conditioned his reinstatement on his cooperation with the OAE. This is a respondent who simply does not or will not comply with the standards expected of a member of the New Jersey bar.

In light of respondent's continuing pattern of failure to cooperate with disciplinary authorities, we determine that a three-month suspension is the appropriate level of discipline in this matter. Two members did not participate.

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

Disciplinary Review Board  
Mary J. Maudsley, 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 Donald B. Devin  
Docket No. DRB 03-438

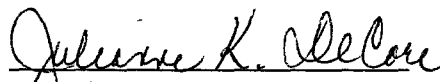
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Decided: April 14, 2004

Disposition: Three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Boylan</i>		X					
<i>Holmes</i>		X					
<i>Lolla</i>							X
<i>Pashman</i>							X
<i>Schwartz</i>		X					
<i>Stanton</i>		X					
<i>Wissinger</i>		X					
<b>Total:</b>		7					2

  
Julianne K. DeCore  
Chief Counsel