

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D28259  
O/kmg

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A. GAIL PRUDENTI, P.J.  
WILLIAM F. MASTRO  
REINALDO E. RIVERA  
PETER B. SKELOS  
JOSEPH COVELLO, JJ.

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2008-08744

OPINION & ORDER

In the Matter of Damien Semel-DeFeo, an attorney and  
counselor-at-law.

Grievance Committee for the Second, Eleventh, and  
Thirteenth Judicial Districts, petitioner; Damien  
Semel-DeFeo, respondent.

(Attorney Registration No. 4256541)

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DISCIPLINARY proceeding instituted by the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts. The respondent was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on November 17, 2004. By decision and order on motion dated January 23, 2009, this Court, on its own motion, authorized the Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts to institute and prosecute a disciplinary proceeding against the respondent based on his conviction of aggravated unlicensed operation of a motor vehicle in the third degree, and referred the issues raised to the Honorable Harry E. Seidell, as Special Referee, to hear and report.

Diana Maxfield Kears, Brooklyn, N.Y. (Kathryn Donnelly Gur-Arie of counsel), for petitioner.

David H. Gendelman, New York, N.Y., for respondent.

September 14, 2010

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MATTER OF SEMEL-DeFEO, DAMIEN

PER CURIAM.

The Grievance Committee for the Second, Eleventh, and Thirteenth Judicial Districts (hereinafter the Grievance Committee) served the respondent with a petition, dated February 26, 2009, containing one charge of professional misconduct. After a prehearing conference on April 28, 2009, and a hearing on June 15, 2009, Special Referee Harry E. Seidell sustained the charge. The Grievance Committee now moves to confirm the Special Referee's report and to impose such discipline as the Court deems appropriate under the circumstances. The respondent's counsel has submitted an affirmation in response in which it is suggested that if the Court sustains the charge, the appropriate measure of discipline should be an admonition or public censure.

The charge alleges that the respondent has been convicted of a crime, in violation of Code of Professional Responsibility DR 1-102(a)(3) (22 NYCRR former 1200.3[a][7]).

On or about April 17, 2008, the respondent was convicted in the Supreme Court, Kings County, upon his plea of guilty, to aggravated unlicensed operation of a motor vehicle in the third degree, in violation of Vehicle and Traffic Law § 511(1)(a), an unclassified misdemeanor. He was sentenced to a fine of \$500, and a \$50 surcharge was imposed.

Based on the undisputed underlying factual allegations, the Special Referee sustained the charge. Accordingly, the Grievance Committee's motion to confirm the Special Referee's report is granted.

In determining an appropriate measure of discipline to impose, the respondent asks the Court to consider his unblemished disciplinary history, the character letters submitted by three professional colleagues, his candor and complete acceptance of responsibility for his actions, and the fact that his misconduct did not involve the practice of law, which consisted, for him, almost exclusively of no-fault collection matters.

The Grievance Committee submits that notwithstanding the respondent's acknowledgment of a serious problem in connection with driving, he waited until a week before his disciplinary hearing to make an appointment with a therapist and to register for a defensive driving course. The Grievance Committee further submits that the record evinces the respondent's pattern of contempt and disregard for the Traffic Violations Division of the Department of Motor Vehicles by virtue of his numerous license suspensions for failing to answer summonses and pay fines. Despite his misdemeanor conviction, the respondent continued to drive with a suspended license. While the

respondent's underlying actions do not directly impact on his practice of law, the repetitive nature of such conduct reflects an overall disrespect for the law.

Notwithstanding the respondent's plea that any disciplinary action be limited to an admonition or censure, we find that the respondent's misconduct warrants his suspension from the practice of law for a period of six months.

PRUDENTI, P.J., MASTRO, RIVERA, SKELOS and COVELLO, JJ., concur.

ORDERED that the petitioner's motion to confirm the Special Referee's report is granted; and it is further,

ORDERED that the respondent, Damien Semel-DeFeo, is suspended from the practice of law for a period of six months, commencing October 14, 2010, with leave to the respondent to apply for reinstatement by motion to this Court with a return date not more than one month prior to the expiration of the period of suspension, upon furnishing satisfactory proof that during said period he (1) refrained from practicing or attempting to practice law, (2) fully complied with this opinion and order and with the terms and provisions of the written rules governing the conduct of disbarred, suspended, and resigned attorneys (*see* 22 NYCRR 691.10), (3) complied with the applicable provisions of 22 NYCRR 691.11(c)(4), and (4) otherwise properly conducted himself; and it is further,

ORDERED that pursuant to Judiciary Law § 90, during the period of suspension and until further order of this Court, the respondent, Damien Semel-DeFeo, shall desist and refrain from (1) practicing law in any form, either as principal or agent, clerk, or employee of another, (2) appearing as an attorney or counselor-at-law before any court, Judge, Justice, board, commission, or other public authority, (3) giving to another an opinion as to the law or its application or any advice in relation thereto, and (4) holding himself out in any way as an attorney and counselor-at-law; and it is further,

ORDERED that if the respondent, Damien Semel-DeFeo, has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith to the issuing agency and the respondent shall certify to the same in his affidavit of compliance pursuant to 22 NYCRR 691.10(f).

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court