

DISCIPLINARY REVIEW BOARD

OF THE SUPREME COURT OF NEW JERSEY



LOUIS PASHMAN, ESQ. CHAIR
BONNIE C. FROST, ESQ. VICE-CHAIR
EDNA Y. BAUGH, ESQ.
BRUCE W. CLARK, ESQ.
JEANNE DOREMUS
HON. REGINALD STANTON
SPENCER V. WISSINGER, III
MORRIS YAMNER, ESQ.
ROBERT C. ZMIRICH

RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 962
TRENTON, NEW JERSEY 08625-0962
(609) 292-1011

JULIANNE K. DECORE
CHIEF COUNSEL
ISABEL FRANK
DEPUTY CHIEF COUNSEL
ELLEN A. BRODSKY
FIRST ASSISTANT COUNSEL
LILLIAN LEWIN
DONA S. SEROTA-TECHNER
COLIN T. TAMS
KATHRYN ANNE WINTERLE
ASSISTANT COUNSEL

February 24, 2010

Mark Neary, Clerk
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625-0962

Re: In the Matter of Thomas G. Masciocchi
Docket No. DRB 10-401
District Docket Nos. XIV-2009-0315E; XIV-2009-0358E;
XIV-2009-0512E; XIV-2010-0035E; and XIV-2010-0112E

Dear Mr. Neary:

The Disciplinary Review Board reviewed the motion for discipline by consent (reprimand) filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a reprimand is appropriate for the stipulated violations.

Specifically, in four municipal court matters (Loebel, McGee, Lima, and Roman), respondent exhibited gross neglect (RPC 1.1(a)), a pattern of neglect (RPC 1.1(b)), and failure to communicate with his clients (RPC 1.4(b)). In one of the matters (Roman), he also misrepresented to the OAE that he had arranged for attorney coverage in the matter, when he had not (RPC 8.1(a)). In two of the matters (McGee and Lima), respondent sent letters to the clients misrepresenting the relative exclusivity of his representation (RPC 8.4(c)). In a fifth matter (O'Neill), respondent failed to set forth, in writing, the rate or basis of his fee (RPC 1.5(a)) and to return the unearned portion of the fee (RPC 1.16(d)).

In the Matter of Thomas G. Masciocchi

Docket No. DRB 10-401

Page 2

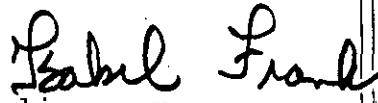
A reprimand would ordinarily be the appropriate sanction for any of respondent's three major infractions: the lie to the OAE (See, e.g., In re Sunberg, 156 N.J. 396 (1998)); the misrepresentations to his two clients (See, e.g., In re Kasdan, 115 N.J. 472, 488 (1989)), and the pattern of neglect (See, e.g., In re Weiss, 173 N.J. 323 (2002)).

On the strength of the considerable mitigation presented, the Board determined that a reprimand sufficiently addresses the totality of respondent's misconduct. Specifically, this is respondent's first brush with ethics authorities in his twenty-three years at the bar. Moreover, he came clean about his misconduct and took immediate steps to prevent the reoccurrence of the problems, which included reducing his caseload, using per diem attorneys for court coverage and implementing a new office system to better track matters for time conflicts.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated October 26, 2010.
2. Stipulation of discipline by consent, dated October 19, 2010.
3. Affidavit of consent, dated October 12, 2010.
4. Ethics history, dated February 24, 2011.

Very truly yours,

By 
Julianne K. DeCore
Chief Counsel

JKD/sj
encls.

cc: Louis Pashman, Chair, Disciplinary Review Board
(w/o encls.)
Charles Centinaro, Director, Office of Attorney Ethics
(w/o encls.)
Christina Blunda Kennedy, Deputy Ethics Counsel, Office of
Attorney Ethics (w/o encls.)
Thomas G. Masciocchi, Respondent (w/o encls.)