

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-301

IN THE MATTER OF
SAMUEL MANDEL
AN ATTORNEY AT LAW

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

Decided: February 19, 2004

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

This matter was before us on a certification of default filed by the District IIIB Ethics Committee ("DEC"), pursuant to R.1:20-4(f).

Respondent was admitted to the New Jersey bar in 1968. On December 7, 1999, respondent received a reprimand for gross neglect, failure to communicate with the client, failure to return file upon termination of the representation, and failure to cooperate with ethics authorities. In re Mandel, 162 N.J. 100 (1999). On the same date, respondent received a second reprimand in a default matter, for gross neglect, failure to communicate with the client, and failure to cooperate with ethics authorities. There is no West citation to that Supreme Court Order.

In February 1998, Fabrizio Matrascia, the grievant, retained respondent to represent him in an insurance claim for a fire loss. In April 1998, respondent represented

Matrascia at a meeting to obtain his sworn statement for his insurance carrier. From April 1998, until May 2002, when Matrascia terminated the representation, respondent failed to take action to protect his client's claim. In particular, respondent failed to challenge an unsatisfactory insurance settlement, despite having been requested to do so by Matrascia. Thereafter, respondent neglected to institute suit in Matrascia's behalf, allowing the statute of limitations to expire and foreclosing his client's recovery on the claim.

Over the course of the four-year representation, respondent also failed to reply to Matrascia's reasonable requests for information about the status of his claim. In fact, Matrascia resorted to "surprising" respondent in his office parking lot, in order to speak with him about his matter. Finally, respondent also ignored inquiries from his adversaries.

The complaint alleges that respondent violated RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 3.2 (failure to expedite litigation), RPC 1.4(a) (failure to communicate with the client), and RPC 1.1(b) (pattern of neglect, when combined with prior instances of gross neglect).

On June 16, 2003, the DEC sent a copy of the complaint to respondent's last known office address listed in the New Jersey Lawyers' Diary and Manual, 139 West Route 38, Moorestown, New Jersey, by certified and regular mail. The certified mail receipt was not included in the record before us, although the district secretary certified that the complaint was served upon respondent on that date. Likewise, the fate of the regular mail is unknown. Exhibit A.

On July 17, 2003, the DEC sent a second letter to respondent at the above address, by certified and regular mail. A copy of the complaint was attached. Exhibit C. The letter

advised respondent 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 receipt was returned signed, but with an illegible signature. Exhibit B. The fate of the regular mail is not known.

Respondent did not file an answer.

Service of process was properly made. Following a review of the record, we found that the facts contained in the complaint support the charges of unethical conduct.

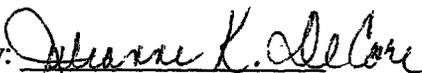
Respondent failed to take action in Matrascia's behalf at two critical junctures. First, he failed to challenge insurance settlement issues, as requested by his client. Thereafter, he failed to institute litigation to protect Matrascia's claims from expiration of the statute of limitations. In addition, respondent failed, over the entire course of the representation, to reply to reasonable requests for information from his client and adversaries alike. In so doing, respondent violated RPC 1.1(a), RPC 1.3, and RPC 1.4(a). Moreover, when this matter is combined with prior instances of gross neglect contained in respondent's earlier disciplinary matters, a pattern of neglect emerges, in violation of RPC 1.1(b). We dismissed the allegation of a violation of RPC 3.2. Failure to expedite litigation is appropriate only in situations where litigation is present. Respondent never filed suit in the within matter.

Ordinarily, conduct of this sort in one or a few matters, with violations such as failure to communicate with the client, warrants the imposition of an admonition or a reprimand. See, e.g., In the Matter of E. Steven Lustig, Docket No. DRB 00-003 (April 10, 2000) (admonition for attorney who grossly neglected a matrimonial matter and failed to adequately communicate with his client); In re Wildstein, 138 N.J. 48 (1994)

(reprimand for gross neglect and lack of diligence in two matters and failure to communicate in a third matter); and In re Gordon, 121 N.J. 400 (1990) (reprimand for gross neglect and failure to communicate in two matters). In aggravation, respondent allowed Matrascia's matter to languish for four years, and respondent has been disciplined twice in the past (two reprimands) for almost identical misconduct. Moreover, this is respondent's second consecutive default, an illustration of his disdain for the disciplinary system. For all of these reasons, we unanimously determined to impose a three-month suspension. Four members did not participate.

We also required respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: 
Julianne K. DeCore
Chief Counsel

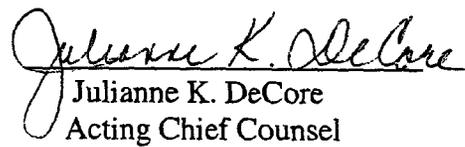
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Samuel Mandel
Docket No. DRB 03-301

Decided: February 19, 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					
Total:		5					4


Julianne K. DeCore
Acting Chief Counsel