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SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 99-362

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IN THE MATTER OF  
MARC J. MALFARA  
AN ATTORNEY AT LAW

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

Decided: June 12, 2000

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

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

On July 12, 1999 the DEC forwarded a copy of the complaint to respondent by certified and regular mail. The certified mail receipt was returned, indicating delivery. The regular mail was not returned. When respondent did not answer, the DEC forwarded a second letter, on September 14, 1999, seeking a reply within five days. The certified mail

receipt was returned, indicating delivery. The signature appears to be that of respondent's. The regular mail was not returned.

Respondent was admitted to the New Jersey bar in 1993 and the Pennsylvania bar in 1992. He has an extensive ethics history. In March 1999, he was reprimanded for gross neglect, failure to cooperate with disciplinary authorities and conduct prejudicial to the administration of justice. In re Malfara, 157 N.J. 635 (1999). In April 1999 we determined to impose a six-month suspension for gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to communicate the basis of a fee in writing, failure to return a client's file and failure to reply to a lawful demand for information from a disciplinary authority. That matter, too, proceeded on a default basis. In the Matter of Marc Malfara, Docket No. DRB 98-482 (November 17, 1999). In addition, we determined to impose a six-month consecutive suspension, following our review of a second default matter. In the Matter of Marc Malfara, Docket No. DRB 99-153 (December 6, 1999). There, respondent's misconduct included gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to return a client's file and failure to deliver funds to which a client or third party is entitled.

According to the complaint, Thoiria J. Bendell retained respondent to represent her in connection with a medical malpractice action. Respondent filed a writ of summons in 1995 in Philadelphia County, Pennsylvania. Respondent, however, neglected to file a complaint. Thereafter, for approximately two and one-half years, respondent misled Bendell

by assuring her that the case was proceeding properly. In fact, the complaint had never been filed.

In July 1998, Bendell retained the services of a new attorney. At that time she learned that respondent had not filed the complaint and that her case had been dismissed in December 1996. On July 14, 1998, respondent wrote to Bendell admitting that he had lied to her, but assured her that another attorney would be able to reinstate her case.

In total, the one-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate), RPC 3.2 (failure to expedite litigation), RPC 4.1(a)(1) (making a false statement of material fact or law to a third person), RPC 8.1(b) (failure to cooperate with ethics authorities) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation). The complaint also charged that respondent's conduct in this and the earlier matters violated RPC 1.1(b) (pattern of neglect).

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Service of process was proper in this matter. Following a review of the complaint, we find that the facts recited therein support a finding 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)(1).

Respondent agreed to represent Bendell, took some action in her behalf, but then failed to file a complaint. Thereafter, for approximately two and one-half years, respondent

misled her that her matter was proceeding properly. It was not until Bendell retained a new attorney that she learned that her case had been dismissed. Respondent admitted that he had lied to Bendell about the status of her case.

One final issue remains concerning our jurisdiction over this matter. Respondent is admitted to practice law in New Jersey and his client was a New Jersey resident. Although he represented Bendell in a Pennsylvania matter, respondent was still bound to comply with the New Jersey Rules of Professional Conduct. Moreover, every attorney authorized to practice law in New Jersey is subject to the disciplinary jurisdiction of the New Jersey Supreme Court. R.1:20-1(a). We, therefore, have jurisdiction over this matter.

The allegations of the complaint support the finding that respondent's conduct violated RPC 1.1(a), RPC 1.3, RPC 3.2 (failure to expedite litigation), RPC 8.1(b) and RPC 8.4(c). Also, respondent's conduct in this matter, together with his conduct in two earlier matters amounted to a pattern of neglect, in violation of RPC 1.1(b).

Based on respondent's ethics history and the default nature of this matter, an additional suspension is required. Accordingly, we unanimously determined to suspend respondent for six months, the suspension to be served concurrently with his current suspension. Three members did not participate.

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

Dated: 6/12/00

By: 

LEE M. HYMERLING  
Chair  
Disciplinary Review Board

**SUPREME COURT OF NEW JERSEY**

**DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

**In the Matter of Marc J. Malfara  
Docket No. DRB 99-362**

**Decided: June 12, 2000**

**Disposition: Six-month suspension to be served concurrently with  
respondent's current suspension**

Members	Disbar	Six-month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling		X					
Peterson		X					
Boylan		X					
Brody		X					
Lolla							X
Maudsley							X
O'Shaughnessy		X					
Schwartz							X
Wissinger		X					
<b>Total:</b>		6					3

*Robyn M. Hill 7/12/00*  
Robyn M. Hill  
Chief Counsel