

ADMONITION NO. 05-19

CLASSIFICATION:

Conduct Involving Dishonesty, Fraud, Deceit, Misrepresentation [Mass. R. Prof. C. 8.4(c)]

SUMMARY:

On or about February 26, 2003, an adult son retained the respondent to represent his mother regarding the sale of her home. The son indicated that he would be negotiating the sale for his mother. The respondent provided general information about the procedure to the son and offered to review a purchase and sale agreement on the mother's behalf. The respondent had had no prior dealings with the client or the son.

The respondent received a copy of a purchase and sale agreement from the realtor who was handling the sale. The agreement, dated March 5, 2003, was signed by the mother. The respondent did not meet with her because she was living out of state with her son. However, he did communicate with her by letter and telephone.

When the home was sold, the respondent prepared a power of attorney from the mother to the respondent giving the respondent the authority to execute the closing documents on her behalf. The mother signed the POA to the respondent on April 8, 2003. Her signature was notarized by a notary in the state where she resided.

The respondent then sent the deed to the mother and asked her to sign it, but not date it. He advised her that he would fill in the appropriate date and that he would also notarize her signature. The respondent was not present when the mother signed the deed. She returned the signed deed to him by mail and he notarized her signature on April 30, 2003. The closing took place on May 6, 2003.

There was no dispute regarding the genuineness of the signature. However, the respondent's conduct in notarizing and purporting to witness the signature of a person who was not present before him violated Mass. R. Prof. C. 8.4(c).

The respondent has been a member of the bar since 1979. He has no prior discipline. The respondent received an admonition for his misconduct in this matter.