

ADMONITION NO. 00-11

CLASSIFICATIONS:

Failure to Provide Competent Representation [Mass. R. Prof. C. 1.1]

Failure to Represent Client Diligently [Mass. R. Prof. C. 1.3]

SUMMARY:

The respondent failed to provide competent representation in one matter and neglected a second unrelated matter.

In the first matter, on October 29, 1998, the respondent was retained by client who was a citizen of New Zealand. The client was in the United States on a H-1B non-immigrant visa that was tied to her particular employment. Her status was good to February 16, 2000, provided that she retained her current employment. The client initially consulted with the respondent regarding her prospects of obtaining a permanent visa based on unique employment.

On March 19, 1999, the client was offered a new job. On March 23, 1999, the client called the respondent, informed him of the new job offer and indicated that she was about to give four weeks notice. She asked the respondent to extend her H-1B status to her new employment. The respondent erroneously believed that the client's status was good to February 16, 2000. He did not know, and thus did not inform his client, that within ten days of her leaving her employment her status would automatically terminate, and that she then would become an illegal alien subject to immediate deportation. The respondent should have

immediately informed the client that her legal immigration status was at risk if she terminated her employment and advised her to consider keeping her old job until a new status tied to her new employment was finalized.

On March 30, 1999, the respondent met with his client and the client gave to the respondent \$700.00 for what the respondent and the client incorrectly understood to be a "visa extension". The respondent and the client agreed to meet again on April 13, 1999, but the respondent cancelled the meeting. As of April 26, 1999, the client was getting concerned and called her new employer to ask if the respondent had been in contact to start the paper work. As of April 26, 1999, the respondent had not been in contact with the client's new employer. On April 28, 1999, after she had left her old job, the client consulted with new counsel. At this time, the client learned that her status was that of an illegal alien and that there was no such thing as a visa extension in her circumstances.

Although the respondent had handled various types of discrete immigration matters in the past, he had no experience in employment issues related to immigration and did not research the issues adequately. The respondent's inexperience had consequences. If the client had stayed at her old job, she could have remained in the country until February 2000 and would have been eligible for and likely to receive a one-year extension. As it is, despite the best efforts of her new attorney, the client was required to, and did in fact leave the country by November 4, 1999.

The respondent's handling of an immigration matter that he was not competent to handle without adequate research or associating with experienced counsel was in violation of Mass. R. Prof. C. 1.1.

In the second matter, on March 6, 1998, the respondent was retained to prepare a family trust, record the declaration of trust and convey real estate into the trust. The respondent accepted a flat fee of \$500.00 to perform the service. The respondent finished preparation of the trust document and schedule of beneficiaries in August 1998 and the trust document was executed in September 1998. In December 1998, the client wrote to the respondent and complained that the deed into the trust had not been finalized and that the respondent was not returning her phone calls. The respondent did not respond to the correspondence. On March 3, 1999, the client complained to Bar Counsel. On March 15, 1999, Bar Counsel sent a letter to the respondent asking for a response to the complaint within twenty days. The respondent did not reply. On June 3, 1999, Bar Counsel sent to the respondent a follow up letter. The respondent answered on July 14, 1999, apologized and indicated that the deed had been prepared and was recorded on April 22, 1999. Subsequently, the client contacted Bar Counsel and indicated that she was satisfied with the final resolution of the matter. Nevertheless, the respondent's neglect of a legal matter entrusted to him was in violation of Mass. R. Prof. C. 1.3.

The respondent received an admonition in each of the two files conditioned on attendance at a CLE program on immigration law designated by Bar Counsel.