

## **ADMONITION NO. 00-07**

### **CLASSIFICATION:**

Handling Legal Matter Without Adequate Preparation [Mass. R. Prof. C. 1.1]

### **SUMMARY:**

At a client's request, the respondent prepared a deed by which the father of the client's youngest child, from whom she had separated, conveyed to the client as joint tenant an interest in the house in which she and her children lived. The client was worried that grantor's financial difficulties could lead to seizure of her home by creditors. The respondent cautioned the client not to have the deed executed or recorded without mortgagor permission. Unknown to the respondent, the client disregarded the respondent's advice, and the deed was executed and recorded. The respondent did not acknowledge the grantee's signature, and

the client herself recorded the deed. Although the registry of deeds returned the executed deed to the respondent's office, it was not brought to his attention.

The respondent also represented this client in connection with a paternity and child support and visitation matter initiated by the father of the client's two oldest children. When the parties and their attorneys met in a four-way pre-trial conference, the respondent made available to the opposing party a financial statement prepared and signed under oath by the client. The client had left blank the portion of the statement asking about real estate assets, indicating that she owned no real estate. The respondent also signed the statement, stating that he had no knowledge that anything contained therein was false, and represented that his client had made full disclosure of her assets. The opposing party then confronted the respondent and his client with a copy of the deed dated eight months earlier conveying the interest in real estate previously described.

The financial statement presented at the meeting was never filed with the court. A financial statement filed with the court three days later included the real estate among the client's assets.

Since this was a paternity action which concerned child support and visitation issues only, with no issues of spousal support or division of marital assets at stake, the non-disclosure was only marginally relevant. In addition, the mortgage, certain liens and creditor collection costs almost matched the total value of the property, leaving the client with, at best, less than \$10,000 equity in the property.

The respondent knew that he had prepared a deed at the client's request. When the respondent reviewed the financial statement prepared by the client, he should have inquired about the status of the deed and made sure that the real estate was listed in the client's assets. His failure to do so and his consequent negligent execution of a false financial statement constituted inadequate preparation.

The respondent received an admonition for violation of Mass. R. Prof. C. 1.1.