

**Admonition No. 96-10****Classifications:**

Handling Legal Matter When Not Competent [DR 6-101(A)(1)]

Handling Legal Matter Without Adequate Preparation [DR 6-101(A)(2)]

Neglect of a Legal Matter [DR 6-101(A)(3)]

Failure to Seek the Lawful Objectives of a Client [DR 7-101(A)(1)]

Failure to Carry Out a Contract of Employment [DR 7-101(A)(2)]

**Summary:**

The client retained a lawyer in August of 1991 to assist him in settling his father's estate. The client's father had died on June 23, 1990 without a will. The father's primary asset at the time of his death was a house in Massachusetts valued at \$150,000. The father also owned a car and some other property at the time of his death. The total value of the father's estate was under \$200,000, and thus no estate tax was due.

In the summer of 1992, the lawyer filed a petition for administration of the decedent's estate with the probate court. After the client was appointed as administrator of his father's estate, the lawyer filed an Inventory signed by the client with the probate court in September of 1992.

In the late summer or fall of 1993, the lawyer turned the case over to the respondent, who had begun to work in an of-counsel position in the lawyer's law firm.

In March of 1994, the respondent sent the client a blank probate account form for the client to prepare and sign. The

client returned the account to the respondent for filing. However, the respondent failed to file the account or return it to the client for further revisions, and thereafter neglected the client's case and failed to respond to telephone calls from the client asking to know the status of the matter. On August 9, 1995, the client filed a grievance with Bar Counsel.

The respondent incorrectly advised the client that the decedent's real property should not have been listed in the Inventory, and that he should seek allowance of his account before obtaining an estate tax closing letter.

In January or February of 1996, the respondent prepared a Massachusetts estate tax return for the father's estate, and a First and Final Account for the client. These documents were deficient in a number of respects not affecting either the disposition of the estate or estate tax liability. In February of 1996, the respondent received a release of estate tax lien for the estate, and both heirs have assented to the First and Final Account.

The respondent neglected the client's case after the case was turned over to him in 1993 until a complaint was filed with Bar Counsel in August 1995. His conduct in neglecting his client and failing to represent his client zealously violated Canon Six, DR 6-101(A)(3), and Canon Seven, DR 7-101(A)(1) and (2). The work which was performed by the respondent was deficient in several respects. The respondent's conduct in handling a legal matter which he should have known he was not competent to handle without associating with a lawyer who is competent to handle it violated Canon Six, DR 6-101(A)(1). The respondent's conduct in handling a legal matter without preparation adequate in the circumstances violated Canon Six, DR 6-101(A)(2).

In aggravation, the respondent, who was admitted to practice in 1971, received a private reprimand in 1986 for commingling and misuse of client funds in a divorce matter. In 1991, a complaint against the respondent was dismissed with a cautionary letter due to the respondent's failure to cooperate with Bar Counsel.

In mitigation, the client did not suffer any financial harm due to the neglect of his case. The respondent also agreed to not charge the client for his services.

For his conduct, the respondent received an admonition, on the condition that he attend a CLE course designated by Bar Counsel.