

ADMONITION NO. 21-12

CLASSIFICATION:

No Written Fee Arrangement [Mass. R. Prof. C. 1.5(b)(1)]

SUMMARY:

In or around October 2016, clients retained the respondent to represent them in connection with the sale of their residence. The respondent told the clients he would charge them a \$750 flat fee, but failed to communicate in writing, before or within a reasonable time after commencing the representation, the scope of the representation and the basis or rate of the fee and expenses for which the clients were responsible. This sale occurred without incident.

During this time, the clients retained the respondent to represent them in connection with the purchase of a new residence. The respondent told the clients he would charge them a \$750 flat fee, but failed to communicate in writing, before or within a reasonable time after commencing the representation, the scope of the representation and the basis or rate of the fee and expenses for which the clients were responsible. The property to be purchased had a conservation commission order regarding environmental issues that was contained in the chain of title. The respondent duly negotiated the purchase and sale agreement for the property, but did not conduct the title search or examination, and did not act as the closing attorney for the bank financing the transaction. The clients allege that the respondent failed to ensure that the property complied with the environmental order. On the day of the closing of the purchase, the town revoked its previously issued Certificate of Occupancy because of violations of the conservation order. The respondent negotiated an escrow agreement allowing the sale to close, the violations to be corrected and the Certificate of Occupancy to be issued. There was no ultimate harm to the respondent's client.

By failing to communicate in writing the scope of the representation and the basis or rate of the fee and expenses for which the client was responsible before or within a reasonable time after commencing the representation and failing to provide a writing regarding the change to the flat fee, the respondent violated Mass. R. Prof. C. 1.5(b)(1).

The respondent was admitted to the bar in 1998. He has no previous discipline. The respondent received an admonition for this misconduct.