

ADMONITION NO. 21-04

CLASSIFICATIONS:

Failure to Communicate Adequately with Client [Mass. R. Prof. C. 1.4(a)(2)]

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

SUMMARY:

In December 2018, the client decided to sell his condominium. The client relied on his brother, who had experience with real estate matters, to handle the legal and financial details of the transaction. The client directed his brother to hire the respondent, and to communicate with and give instructions to the respondent on his behalf.

The brother accordingly contacted the respondent and retained her on the client's behalf. He explained to the respondent that she would be working on the Purchase and Sale agreement, and some other issues, but that she would not need to attend the closing. Although the brother had authority to act on behalf of the client, the respondent failed to confirm that authority with the client. The respondent also failed to provide the brother and the client with a writing documenting 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.

At the direction of the brother, the respondent thereafter competently performed several legal tasks required for the sale. The closing went forward. At the direction of the brother, the respondent arranged for the buyer to make out a check for a specified portion of the proceeds from the sale and send it to the brother. The respondent adhered to the instruction she was given by the brother. The brother received the check and, without the respondent's knowledge, failed to deposit it into an account controlled by the client. The respondent thereafter attempted, unsuccessfully, to resolve the brothers' dispute over the misdirected funds.

By failing to communicate to the client 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, the respondent violated Mass. R. Prof. C. 1.5(b)(1). By failing to reasonably consult with the client about the means by which the client's objectives were to be accomplished, including by failing to confirm the brother's authority to act on the client's behalf, the respondent violated Mass. R. Prof. C. 1.4(a)(2).

The respondent was admitted to practice in Massachusetts in 2017 and has received no prior discipline. The respondent received an admonition for her misconduct.