

## **ADMONITION NO. 20-18**

### **CLASSIFICATION:**

Improper Communication with Unrepresented Person [Mass. R. Prof. C. 4.3]

### **SUMMARY:**

The respondent received an admonition for failing to ensure that unrepresented persons understood his role in conducting an investigation on behalf of a client.

The respondent was retained by a client to conduct an investigation into allegations that former employees of the client had engaged in sexual misconduct related to their employment. The respondent's partner represented the client to advise on how the client should respond to the allegations of sexual misconduct. The client informed potential witnesses and victims that it had asked the respondent to conduct an "independent" inquiry into the allegations and asked anyone with information to contact the respondent directly. The respondent was aware of the client's representation of his independence.

The respondent informed the individuals he interviewed as part of the investigation that he was a lawyer hired by the client to perform the investigation and that he would report his findings to the client's chief executive and board chair, and that some findings might need to be reported to the authorities in accordance with applicable laws. He did not inform those individuals that his law partner and therefore his firm would advise the client on its response to the allegations of sexual misconduct. All individuals who spoke to the respondent did so voluntarily. The respondent was not aware that any individual with whom he spoke misunderstood the respondent's role.

Many of the victims of the sexual misconduct were represented by their own counsel throughout the investigation. At various times, including before, during and after the investigation, witnesses and victims learned that the respondent's law partner represented the client and questioned the independence of the respondent's investigation. A second investigation was conducted, and the factual findings were consistent with the respondent's findings.

The respondent's conduct in not specifically advising the individuals he interviewed that his law partner was providing legal advice to the client in this matter violated Mass. R. Prof. C. 4.3.

The respondent was admitted to practice in Massachusetts in 1999. He has no prior discipline. The respondent was given this admonition for his conduct in this matter.