

## **ADMONITION NO. 25-17**

### **CLASSIFICATIONS:**

Failing to Seek Client's Lawful Objectives or Abide by Client's Decisions to Plead, Settle, Testify, or Waive Jury Trial [Mass. R. Prof. C. 1.2(a)]

Failing to Act Diligently [Mass. R. Prof. C. 1.3]

Failing to Keep Client Informed or To Respond to Inquiries [Mass. R. Prof. C. 1.4(a)(3), (4)]

Withdrawal without Protecting Client or Refunding Unearned Fee or Expense [Mass. R. Prof. C. 1.16(d)] (as in effect prior to 6/1/25)

### **SUMMARY:**

In September 2020, the client purchased a property that was advertised as a two-family residence. Thereafter, in attempting to obtain an electrical permit for the property, the client discovered that the property was, in fact, zoned as a one-family residence. In December 2021, the client hired the respondent to represent her to pursue damages arising from the misrepresentation of the property as a two-family residence at the time of the sale. She paid the respondent a \$5,000 retainer for the representation. As part of the fee agreement, the client agreed to replenish the retainer if necessary.

Between December 2021 and April 2022, the respondent attempted to resolve the matter for his client. As of April 2022, the client's retainer was depleted. In August 2022, the city inexplicably reclassified the property as a two-family residence. Despite this reclassification, the client still wanted the respondent to pursue damages against the seller for the financial burden resulting from the disparity in classifications of the property at the time of the sale. In October 2022, the respondent and the client discussed a timeline for proposed litigation. The client requested that the respondent initiate suit by February 2023.

The respondent took no action in furtherance of a lawsuit against the seller in the fall of 2022. Thus, in January 2023, the client again communicated to the respondent her desire to move forward with the lawsuit. The respondent suggested sending a M.G.L. Ch. 93A demand letter to the seller of the property prior to filing suit to see if they could avoid litigation. Simultaneously, the respondent had conversations with the client regarding an outstanding balance of fees owed in the approximate amount of \$10,000, and that the client needed to replenish the retainer pursuant to the fee agreement in order for the respondent to continue working on the case. The client did not replenish the retainer. While the respondent had resulting reservations about continuing to represent the client, at no point did he inform her that he would cease working on her case and terminate the representation.

In March 2023, the respondent sent the M.G.L. Ch. 93A demand letter to the seller of the property. In April 2023, the respondent and the client had further communication regarding next steps. Again, the respondent did not inform the client that he needed to terminate the representation due to his concerns about legal fees or any other reason. Nonetheless, following this discussion, the respondent did no substantive work on the matter. And, over the next few months, the client had an increasingly difficult time communicating with the respondent. In fact, despite multiple attempts at communication from the client, the respondent only spoke to the client on one occasion between the months of June and August of 2023. Frustrated by the respondent's inaction and overall unresponsiveness, in September 2023, the client fired the respondent as her lawyer and retained successor counsel to assist her with her claims. No ultimate harm occurred as a result of the respondent's lack of diligence and inadequate representation toward the end of the representation.

By failing to keep the client reasonably informed about the status of the matter, the respondent violated Mass. R. Prof. C. 1.4(a)(3) and (4). By failing to proceed with the litigation as requested by his client, the respondent violated Mass. R. Prof. C. 1.2(a) and 1.3. By failing to give reasonable notice to the client that he was terminating representation based upon an unpaid fee balance, the respondent violated Mass. R. Prof. C. 1.16(d).

The respondent has no disciplinary history. The respondent received an admonition for his misconduct.