

ALINE Z. MARTINIAN

Order (public reprimand) entered by the Board August 31, 2010.

SUMMARY¹

The respondent, Aline Z. Martinian, Esq., is an attorney duly admitted to the Bar of the Commonwealth on December 17, 1998.

In September of 2009, the respondent filed with the probate court several documents seeking a divorce between a husband and wife. Included in these documents were the following:

- a. A Joint Petition for Divorce Pursuant to G.L. c. 208, § 1A, signed by the wife and by the respondent for the husband;
- b. Financial statements of the husband and wife, each of which was signed by the respondent as counsel for the respective spouse;
- c. A separation agreement that the respondent had prepared for both the husband and the wife;
- d. A motion from the wife to waive her appearance in the probate court; and
- e. An affidavit of the wife, stating in part that, "The attorneys at [the law firm where the respondent worked] have explained to me that they are representing both me and my husband without partiality to resolve this simple uncontested divorce."

On January 15, 2010, the respondent appeared in the probate court on the divorce and was questioned by the judge concerning the wife's statement set forth in paragraph 2(e). In response the respondent acknowledged that the wife was told that the respondent's firm "would help her as well."

The respondent did not and could not reasonably believe that her representation of either spouse would not adversely affect the relationship with the other spouse. Neither the husband nor the wife gave informed consent after consultation to the respondent's joint representation.

The probate court denied the wife's "motion of waiver of appearance" and entered a judgment of dismissal on the joint petition for divorce, as well as an order of disapproval of the agreement submitted by the parties, "based on counsel representing both parties."

By signing and submitting, as counsel for both parties, financial statements for both the husband and wife in a petition for divorce and otherwise appearing for both parties, the respondent:

- a. engaged in a conflict of interest, in violation of Mass. R. Prof. C. 1.7(a) and 8.4(h).
- b. demonstrated a lack of competence, in violation of Mass. R. Prof. C. 1.1.
- c. failed to seek the lawful objectives of her client through reasonably available means permitted by law and the rules, in violation of Mass. R. Prof. C. 1.2(a).

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint

recommendation for discipline. On August 16, 2010, the Board voted to accept the parties' stipulation and to impose a public reprimand.

¹ Compiled by the Board of Bar Overseers based on the record of proceedings before the Board.

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