

ROBERT A. BONCORE

Public Reprimand No. 2018-16

Order (public reprimand) entered by the Board on December 6, 2018.

The respondent stipulated to a public reprimand for his neglect of two matters and his failure in one of the cases to present his client with a retainer agreement and his refusal to return the unearned portion of a fee, which he subsequently repaid after being sued in small claims court. In the second case, the respondent paid the clients the sanctions that had been awarded against them due to his neglect. In mitigation, the respondent was seriously injured in a motorcycle accident and was under extreme stress at the time.

SUMMARY¹

The respondent was admitted to the bar in Massachusetts in 2003. On November 19, 2018, the Board of Bar Overseers voted to administer a public reprimand to the respondent for his violation of certain rules of professional conduct in two cases as detailed below.

In the first matter, the respondent was retained by a client to represent her in an uncontested divorce in 2016. The respondent failed to provide the client with a fee agreement but obtained \$2,500 from the client for the representation. He then failed to file the complaint for divorce for several months, and after filing it, failed to serve it on the defendant. As a result, the complaint was dismissed, but the respondent failed to file a motion to vacate the dismissal. During the course of the representation, the respondent accomplished nothing of substance for the client. The client terminated the respondent's representation and requested a full refund of the fee. The respondent returned only a portion of the fee. Finally, after the client filed a small claims court action, the respondent refunded the remaining portion of the retainer.

The respondent's failure to provide competent representation, to seek the lawful objectives of his client and to perform the contracted services with reasonable diligence violated Mass. R. Prof. C. 1.1, 1.2(a) and 1.3. The respondent's failure to keep his client reasonably informed about the status of the matter and furnish her with necessary information violated Mass. R. Prof. C. 1.4(a) and 1.4(b). The respondent's failure to communicate to his client in writing the scope of the representation and the basis or rate of the fee and expenses for which the client is responsible violated Mass. R. Prof. C. 1.5(b). The respondent's failure to refund unearned fees at the termination of representation violated Mass. R. Prof. C. 1.16(d).

In the second matter, the respondent was retained by a couple to enforce their contractual interests in certain real property, which interest was disputed in a divorce proceeding. The respondent delayed filing certain pleadings, failed to retain a needed expert, and failed to return his clients' phone calls. After the clients terminated his representation, the respondent filed a motion to withdraw from the case, which was denied. Thereafter, the respondent failed to advise his clients that failure to respond to discovery requests would result in sanctions and that the clients were required to seek court protection if they were unable to attend scheduled depositions. On the opposing party's motion, the clients' claim was dismissed and sanctions and attorney's fees were awarded to the opposing party. The clients paid the sanctions and attorney's fees award. Ultimately, the matter settled as part of the underlying divorce case and the respondent refunded all monetary sanctions and fees awarded against, and paid by, the clients.

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

The respondent's failure to provide competent representation, to seek the lawful objectives of his client and to perform the contracted services with reasonable diligence violated Mass. R. Prof. C. 1.1, 1.2(a) and 1.3. The respondent's failure to keep the clients reasonably informed about the status of their matter and promptly comply with reasonable requests for information violated Mass. R. Prof. C. 1.4(a) and 1.4(b).

In mitigation, the respondent had been severely injured in a motor vehicle accident during the pendency of these cases. The respondent was also undergoing extreme stress due to a personal issue.

The matter came before the Board of Bar Overseers on a stipulation of the parties and a joint agreement to recommend discipline in the form of a public reprimand. On November 19, 2018, the Board of Bar Overseers voted to administer a public reprimand to the respondent.