

**IN RE: DOUGLAS F. BOYD****NO. BD-2012-011****S.J.C. Order of Term Suspension/Stayed entered by Justice Lenk on March 23, 2012.¹****SUMMARY²**

In this matter, the respondent received a three-month suspension, stayed for one year with conditions, for his conduct in failing to act with reasonable diligence and promptness on his client's appeal, resulting in the dismissal of the action, and for failure to cooperate with bar counsel's investigation.

In 2002, the client was injured while in the course of his employment. After taking a short period of time off, the client returned to work and alternated between light and regular duty. However, in 2007, the client's employer terminated him on the ground that there was no more light duty work available. The employer denied the client's worker's compensation benefits claim.

In February 2008, prior to the respondent's representation, the Department of Industrial Accidents (DIA) held a conference regarding the client's application for benefits. The DIA denied the claim. The client's former counsel appealed the decision. In October 2008, the appeal was heard by the DIA, and the DIA stayed the proceedings in order to obtain an independent medical opinion. The client then terminated the services of his former counsel and in November 2008, the respondent undertook to represent the client.

After further hearing, the DIA judge allowed the client's compensation claim and required the employer/insurer to pay benefits. The respondent sent a check to the client in the amount of \$36,013.88 from the employer's insurer as back payment for the client's partial disability benefits and informed the client that he should receive a weekly check for \$356.15 from the insurer moving forward.

In June 2009, the employer and its insurer filed an appeal of the DIA decision. The respondent failed to file the appellee's reply brief by the original due date, and despite a

¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

² Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

reminder from appellant's counsel, failed to file a motion for late filing and failed to file a reply brief on behalf of the client.

In May 2010, the DIA Reviewing Board reversed the client's partial incapacity benefits. In June 2010, the respondent filed a notice of appeal with the DIA. The respondent took no further action with regard to this appeal. In March 2011, the client requested the immediate return of his file. However, the respondent failed to return the file.

In addition, the respondent failed to cooperate with bar counsel's investigation. A subpoena was issued for the respondent's appearance. The respondent failed to appear under subpoena, but rather forwarded the client's file to bar counsel. Bar counsel subpoenaed the respondent again, and the respondent did appear before bar counsel.

The respondent's conduct in failing to act with reasonable diligence and promptness on the client's appeal, resulting in the dismissal of the action, violated Mass. R. Prof. C. 1.1 and 1.3. The respondent's failure to cooperate with bar counsel's investigation violated S.J.C. Rule 4:01, § 3, and Mass. R. Prof. C. 8.4 (d) and (g).

In aggravation, the respondent received a public reprimand for similar misconduct involving neglect. See *Matter of Boyd*, 22 Mass. Att'y Disc. R. 99 (2006).

The matter came before the Board of Bar Overseers on a stipulation of facts and joint recommendation for a three-month suspension, with the execution of the suspension stayed for one year subject to compliance with recommendations made after audit and evaluation by the Law Office Management Assistance Program and Lawyers Concerned for Lawyers. On February 13, 2012, the Board of Bar Overseers voted unanimously to accept the stipulation and to recommend the agreed-upon disposition to the Supreme Judicial Court. The Court so ordered on March 23, 2012.