

**IN RE: JOHN J. O'NEILL****NO. BD-2013-042****S.J.C. Order of Term Suspension entered by Justice Spina on October 20, 2014.<sup>1</sup>****SUMMARY<sup>2</sup>**

The respondent was admitted to the Massachusetts Bar on December 15, 1999. On October 20, 2014, the Supreme Judicial Court for Suffolk County entered an order suspending the respondent indefinitely. The order of suspension arose from the respondent's misconduct in five separate matters involving neglect of client matters, false and misleading statements to conceal the neglect, abandonment of his practice without taking any steps of substance to protect his clients' interests, failure to promptly turn over client funds, and failure without good cause to cooperate with bar counsel's investigation and comply with an order of administrative suspension.

In the first matter the respondent was retained in August 2012 to represent a client against a charge of OUI in district court for a flat fee of \$3,000. The respondent did not have sufficient experience in OUI cases and provided incompetent advice to his client. The respondent appeared on behalf of his client for her arraignment, but thereafter failed to perform any work of substance on the case. He also failed to return his client's phone calls and failed to return the unearned portion of his fee.

By failing to take any action of substance on the case after the arraignment, providing incompetent advice, and handling a matter he was not competent to handle, the respondent violated Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. By failing to return the unearned portion of his legal fee, the respondent violated Mass. R. Prof. C. 1.16(d). By charging \$3,000 for his legal services, which had little value, the respondent collected and retained a clearly

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

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

excessive fee in violation of Mass. R. Prof. C. 1.5(a). By failing to maintain reasonable communications with the client concerning her case to allow her to make informed decisions regarding the respondent's representation, the respondent violated Mass. R. Prof. C. 1.4(a) and 1.4(b).

In the second client matter, the respondent was retained in 2004 to represent a man's two teenage sons in a civil rights claim against the local police department.

The father paid the respondent a flat fee of \$5,000. In 2006, the respondent misrepresented to the father that he had filed suit on behalf of his sons when he had, in fact, taken no action on behalf of the sons. From 2006 to 2010, the respondent continually misrepresented to his clients that he was in negotiations with the police department, that a trial date had been set and that the city would agree to a large cash settlement. Beginning in May 2012, the respondent failed to return messages left by his clients and failed to return any portion of the \$5,000 fee to the father.

The respondent's conduct in failing to pursue a civil claim on behalf of the brothers was in violation of Mass. R. Prof. C. 1.1, 1.2, and 1.3. The respondent's conduct in intentionally misrepresenting to the family that there was an active civil action was in violation of 8.4(c) and 8.4(h). The respondent's conduct in failing to maintain reasonable communications with his clients concerning the case to sufficiently allow him to make informed decisions regarding the respondent's representation violated Mass. R. Prof. C. 1.4(a). The respondent's conduct in not refunding the unearned portion of the fee violated Mass. R. Prof. C. 1.16(d).

In the third matter, the respondent was retained in June 2006 to represent a client in a personal injury claim arising from injuries he sustained in a car accident. On May 21, 2009, the respondent filed a civil action in superior court on behalf of his client. On September 9, 2009, opposing counsel served interrogatories on the respondent's client by mailing them to the respondent's office. The respondent failed to inform his client of the interrogatories and thereafter failed to file timely answers. After October 2009, the respondent did no work of substance on the case.

On April 12, 2010, the case was dismissed because of the respondent's failure to respond to the interrogatories. Thereafter, the respondent failed to seek relief from the

judgment and failed to inform his client that the case had been dismissed, and made misrepresentations about the status of the case.

The respondent's conduct in failing to file answers to the interrogatories in the matter, thereby causing a default to enter, and in failing to seek relief from the default, was in violation of Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. The respondent's conduct in failing to maintain reasonable communications with his client concerning the status of his case and in failing to explain the status of the case sufficiently to allow his client to make informed decisions regarding the representation was in violation of Mass. R. Prof. C. 1.4(a) and 1.4(b). The respondent's conduct in intentionally misrepresenting to his client that his deposition was cancelled because of the illness of opposing counsel violated Mass. R. Prof. C. 1.4 (b) and 8.4(c).

In the fourth matter, the respondent was retained in September 2005 to represent a client on a wrongful death and loss of consortium claim. On March 20, 2008, the respondent filed a civil action in superior court. After March 2008, the respondent did no work of substance on the case. The respondent did not inform his client that he would not take any action on the case.

On July 24, 2008, counsel for the defendants served interrogatories on the respondent's client by mailing them to the respondent's office. The respondent failed to inform his client of the interrogatories and thereafter failed to file answers. On February 10, 2009, the case was dismissed because of the respondent's failure to respond to the interrogatories. The respondent failed to seek relief from the judgment and failed to inform his client that the case had been dismissed. Between October 2009 and December 2012, the respondent intentionally and repeatedly misrepresented to his client that the case was viable and proceeding forward.

The respondent's conduct in failing to file an answer to the interrogatories in the matter, thereby causing a dismissal to enter, and in failing to seek relief from the dismissal, was in violation of Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. The respondent's conduct in intentionally misrepresenting to the client that the wrongful death claim was proceeding for several years after the case had been dismissed was in violation of 8.4(c). The respondent's conduct in failing to maintain reasonable communications with his client concerning the

status of the case and in failing to explain the status of the case sufficiently to allow his client to make informed decisions regarding the representation was in violation of Mass. R. Prof. C. 1.4(a) and 1.4(b).

In the fifth matter, the respondent was retained in 2004 to represent a client in a tort claim. On December 31, 2004, the respondent filed a civil action in superior court. He then

failed to file timely answers to interrogatories propounded by the defendant. On January 5, 2006, the case was dismissed. The respondent failed to seek relief from the judgment.

After 2005, the respondent failed to adequately communicate with his client regarding the status of her case. In 2012, the respondent intentionally misrepresented to his client that her case had been stayed due to the defendant's filing for bankruptcy.

The respondent's conduct in failing to file an answer to the interrogatories in the matter, thereby causing a dismissal to enter, and in failing to seek relief from the dismissal, was in violation of Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. The respondent's conduct in intentionally misrepresenting to his client that her tort claim was proceeding after the case had been dismissed was in violation of Mass. R. Prof. C. 8.4(c). The respondent's conduct in failing to maintain reasonable communications with his client concerning the status of the case and in failing to explain the status of the case sufficiently to allow the client to make informed decisions regarding the representation was in violation of Mass. R. Prof. C. 1.4(a) and 1.4(b).

On April 25, 2013, the respondent was administratively suspended by order of the Supreme Judicial Court for Suffolk County pursuant to S.J.C. Rule 4:01, § 3(2). Thereafter, the respondent intentionally failed without good cause to comply with the order of administrative suspension, in violation of S.J.C. Rule 4:01, § 17, and Mass. R. Prof. C. 3.4(c), 8.4(d) and (h). He also failed without good cause, to comply with bar counsel's requests for information, in violation of S.J.C. Rule 4:01, § 3, and Mass. R. Prof. C. 3.4(c) and 8.1(b), 8.4(d), 8.4(g), and 8.4(h).

By June 2013, the respondent left Massachusetts and moved to Florida. The respondent provided no notice to his clients that he would be abandoning their cases and the

practice of law. He took no steps of substance to return files to the clients or to return any unearned fees. The respondent did not take any steps of substance to preserve the confidentiality of the client files or to safeguard them.

On June 3, 2014, bar counsel filed a petition for discipline against the respondent alleging the misconduct described above. The respondent failed to file an answer to the petition for discipline and was defaulted.

On October 20, 2014, the Board of Bar Overseers voted to recommend that the respondent be indefinitely suspended. On September 22, 2014, the Supreme Judicial Court for Suffolk County (Spina, J.) entered a judgment of indefinite suspension, effective on the entry date of the order.