

**IN RE: KRISTIN A. BRASSARD****NO. BD-2013-062****S.J.C. Order of Term Suspension/Stayed entered by Justice Botsford on August 26, 2013.<sup>1</sup>****SUMMARY<sup>2</sup>**

For neglecting the interests of four clients in unrelated matters and for failing to cooperate initially with bar counsel, the respondent received a three-month suspension from the practice of law, with the execution of the suspension stayed for a period of two years on the conditions that she undergo an evaluation by the Law Office Management Program (LOMAP), that she follow LOMAP's recommendations, and that she carry legal malpractice insurance during the two-year period. Her misconduct is summarized below.

In the first case, the respondent was retained to prepare and file a Chapter 7 bankruptcy for a client. She was paid a flat fee of \$2,200 for the work. Over the next year and a half, the respondent attended to some of the tasks necessary to file her client's bankruptcy. However, at various intervals, she performed little work of substance and thereby caused unnecessary delays in the filing. She ultimately filed a "bare bones" version of the petition; however, she failed to file a valid credit counseling certificate with the petition. The petition was accordingly denied by the court. At the time of the filing, the respondent knew or should have known that the petition would be denied *sua sponte* by the court. See 11 U.S.C. §109(h) (credit counseling requirement only excused in "exigent circumstances"). The respondent was discharged by the client and asked to return the unearned portion of her flat fee in the case. The respondent failed to comply with her client's request until after bar counsel opened an investigation into the matter, at which time she provided a full refund to the client.

The respondent's lack of diligence in representing the client violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3 and 8.4(h). The respondent's filing of the bankruptcy petition without a valid credit counseling certificate constituted conduct prejudicial to the administration of justice in violation of Mass. R. Prof. C. 8.4(d). The respondent's failure to promptly return the unearned fee violated Mass. R. Prof. C. 1.16(d). And, by failing to cooperate initially with bar counsel's investigation into this case, she violated Mass. R. Prof. C. 8.1(b) and 8.4(d), (g) and (h).

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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.

In the second case, the respondent was retained by a client to prosecute a complaint for modification in a divorce matter and to prepare new wills for the client and his new wife. She was paid a flat fee of \$1,200 for the work. Over the next nine months, the respondent filed the modification action and engaged in discovery with opposing counsel. However, the client became dissatisfied with the respondent's work in that proceeding and discharged her as his lawyer. At this point, the respondent had performed no work of substance on the new wills. The respondent nonetheless failed to comply with the client's request for a refund of the unearned portion of her flat fee until after bar counsel opened an investigation into the matter, at which time she refunded \$800 to the client.

The respondent's lack of diligence in representing the client violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3 and 8.4(h). Her failure to promptly return the unearned fee violated Mass. R. Prof. C. 1.16(d). And, by failing to cooperate initially with bar counsel's investigation, she violated Mass. R. Prof. C. 8.1(b) and 8.4(d), (g) and (h).

In the third case, the respondent was retained to prepare and file a Chapter 7 bankruptcy for a client. She was paid a flat fee of \$1,000 for the work. Over the next six months, the respondent gathered documents from the client and prepared a draft of his petition for bankruptcy. However, the petition was never filed. After the respondent failed to respond to inquiries from the client regarding the status of his case, the client discharged the respondent and requested a refund any unearned fees. The respondent failed to comply with her client's request until after bar counsel opened an investigation into the matter, at which time she provided a full refund to the client.

The respondent's lack of diligence in representing the client and her failure to respond to his requests for information violated Mass. R. Prof. C. 1.3 and 1.4(a). Her failure to promptly return the unearned fee violated Mass. R. Prof. C. 1.16(d).

In the fourth case, the respondent was retained to file a joint petition for divorce on behalf of a client and her husband. She was paid a flat fee of \$1,200 for the work, as well as \$220 in necessary filing fees. The respondent accordingly prepared and filed the client's petition along with a check made payable to the court for filing fees. The petition was approved by the court; however, a final decree of divorce did not issue because the respondent's check was rejected upon presentment to her bank. Over the following months, the clerk for the court and her client separately asked the respondent to reissue a valid check so that the final decree of divorce would issue. The respondent did not respond to or otherwise comply with these requests. However, once alerted to bar counsel's investigation into the matter, she paid the outstanding filing fee.

The respondent's lack of diligence in representing the client and her failure to respond to her requests for information regarding the filing fee violated Mass. R. Prof. C. 1.3 and 1.4(a). Her failure to comply with the court's request to reissue a valid check for filing fees constituted conduct prejudicial to the administration of justice in violation of Mass. R. Prof. C. 8.4(d).

In mitigation, at the time of the above misconduct, the respondent was inexperienced in the practice of law and overwhelmed by her caseload due to inadequate law office management.

On May 24, 2013, the parties submitted a stipulation to the Board of Bar Overseers in which the respondent admitted the truth of the above facts and stipulated to the above disciplinary rule violations. The parties recommended that the respondent be suspended from the practice of law for three months with the execution of the suspension stayed for a period of two years on the conditions stated above.

On June 3, 2013, the Board of Bar Overseers voted to accept the stipulation of the parties and their proposed sanction.

On August 26, 2013, the Supreme Judicial Court for Suffolk County (Botsford, J.) entered an order adopting the Board's recommendation, effective on the date of entry.