

**IN RE: MATTHEW J. SGAMBETTERA****NO. BD- 2015-036****S.J.C. Order of Term Suspension entered by Justice Cordy on April 28, 2015, with an effective date of May 28, 2015.¹****SUMMARY²**

On April 28, 2015, the Supreme Judicial Court for Suffolk County ordered that the respondent, Mathew J. Sgambettera, be suspended from the practice of law for four months effective May 28, 2015. The sanction arose from the respondent's continuing to practice law after he was administratively suspended and for his neglect of a client matter.

On April 25, 2007, the respondent was administratively suspended for failure to pay his annual attorney registration fee. The order required the respondent immediately to cease practicing law. The respondent received this order in due course, but failed to comply with it.

On October 30, 2008, the respondent appeared in the superior court and represented a corporate client as a defendant in a jury-waived civil trial. The respondent did not inform his client, the court, or opposing counsel of his administrative suspension.

On January 14, 2011, the court found in favor of the plaintiff and dismissed all of the client's counterclaims. The court awarded the plaintiff a total of \$131,742.08. The respondent agreed to file an appeal on behalf of his client.

On March 18, 2011, the respondent filed a notice of appeal. On the same date, the superior court notified the respondent that his client was obligated to comply with Massachusetts Rules of Appellant Procedure rule 9(c)(2) within ten days after the filing of the notice of appeal. The respondent failed to comply with the rule and thereafter took no actions to further the appeal. The respondent did not inform his client that he had not taken any further action in its case.

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.

On May 5, 2011, the plaintiff filed a motion to dismiss the respondent's appeal for failure to comply with Rule 9(c)(2). The respondent failed to file an opposition or to otherwise cure his failure to comply with the rule, and on May 12, 2011, the court dismissed the appeal. The respondent did not inform his client that the appeal had been dismissed.

On June 14, 2011, the plaintiff filed a motion for post-judgment trustee attachment. The court scheduled a hearing for July 18, 2011, and sent notice to the respondent. The respondent failed to appear and failed to arrange for any other attorney to appear in his absence. On the same day, the court allowed plaintiff's motion for trustee attachment.

Between July 20, 2011, and September 3, 2012, the client emailed the respondent and left messages for him on his office telephone requesting information about the status of the case. The respondent failed to respond to his client's request for information.

On July 20, 2011, the respondent received notice of the plaintiff's intention to depose an employee of the client, and the client received a subpoena. The respondent failed to cause his client's employee to appear at the deposition. On August 1, 2011, the plaintiff filed a complaint for contempt for the failure to produce a witness at the deposition. On August 5, 2011, the court scheduled a status hearing on the contempt complaint for August 24, 2011, and notified the respondent of that hearing.

At the respondent's request the court rescheduled the hearing for September 16, 2011. A day before the scheduled hearing, the respondent instructed his associate to appear in court, request a continuance, and inform the court that another attorney might be entering his appearance. The associate did as instructed, but the client was unaware that the respondent was planning to withdraw and no attorney had agreed to take over the case. The respondent took no further action on the case.

On or about November 2, 2011, the court allowed the plaintiff's motion for trustee attachment and the respondent's client's accounts were subject to trustee process in the amount of \$135,466.98. On November 2, 2011, and on March 27, 2012, plaintiff filed amended executions to recover interest and costs from February 22, 2011, to March 27, 2012, in the amount of \$16,654.17.

The respondent's conduct in intentionally failing without good cause to comply with the order of administrative suspension violated of S.J.C. Rule 4:01, § 17, and Mass. R. Prof. C. 3.4(c) and 8.4(d). The respondent's conduct in practicing law after his administrative suspension violated Mass. R. Prof. C. 5.5(a).

The respondent's failure to file an appeal or take any action of substance on behalf of his client after filing the notice of appeal 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 its case, failure to promptly comply with its requests for information, failure to advise them that he was taking no action to protect its interests in the appeal, and failure to advise them that he was administratively suspended violated Mass. R. Prof. C. 1.4(a) and (b). By effectively terminating his representation without reasonable notice to his client and without taking steps to protect his client's interests, the respondent violated Mass. R. Prof. C. 1.16(d).

In mitigation, the respondent's misconduct occurred during a period in which a member of the respondent's immediate family had a serious medical condition. The burden on the respondent distracted him from his professional obligations.

This matter came before the Board of Bar Overseers on a stipulation of facts and rule violations and a joint recommendation for a four-month suspension from the practice of law. On April 13, 2015, the board voted to accept the stipulation and recommend the agreed-upon disposition to the Supreme Judicial Court for Suffolk County. On April 28, 2015, the county court entered an order suspending the respondent for four months, effective May 28, 2015.