Public Reprimand No. 2011-20

Order (public reprimand) entered by the Board on July 18, 2011.

SUMMARY[1]

The respondent received a public reprimand for his failure to diligently pursue a client's matter, adequately communicate with his client, and cooperate with bar counsel's investigation.

A Board of Trustees for a condominium association retained the respondent on an hourly basis in June 2009 to handle a dispute over a property boundary line with an abutter. The Trustees paid the respondent an initial retainer.

The respondent obtained a survey and title search in June 2009, but thereafter took no further action of substance on behalf of the Trustees. From July 2009 through January 2010, the Trustees repeatedly requested information from the respondent about the status of their matter. On three occasions, the respondent told the Trustees that he would provide a substantive response at a later time. After September 2009, the respondent never responded to the Trustees' requests for information.

In January 2010, the Trustees sent the respondent a letter discharging him and requesting the return of their file, an accounting for services rendered, and a check for any unearned retainer. In February 2010, bar counsel received a grievance from the Trustees, and on February 17, 2010, bar counsel sent a copy of this communication and a cover letter to the respondent requesting his response within twenty days.

On February 18, 2010, the respondent sent the Trustees the file, an accounting, and a check for the return of their retainer less the cost of the survey and title search. In a letter, the respondent informed the Trustees that he did not believe they held title to the disputed property.

In March 2010, bar counsel sent a letter to the respondent advising him that he had failed to respond to bar counsel's letter of February 17, 2010 concerning the Trustees' allegations and requesting a reply within ten days. The respondent failed to respond. On March 24, 2010, the Board of Bar Overseers authorized service of a subpoena on the respondent directing the respondent to appear at the Office of Bar Counsel on April 14, 2010 and bring the requested files and records. The respondent was duly served with the subpoena, and bar received the respondent's answer by mail on April 12, 2010.

The respondent's failure to diligently pursue the Trustees' matter was in violation of Mass. R. Prof. C. 1.3, and his failure to adequately communicate with the Trustees throughout the representation and respond to their requests for information was in violation of Mass. R. Prof. C. 1.4(a) and (b). The respondent's failure to cooperate with bar counsel, causing a subpoena to issue, was in violation of Mass. R. Prof. C. 8.4(g).

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

In aggravation, the respondent received an admonition in 2007 for taking a civil rights case despite not having competence in that practice area. In 2006, he received an admonition for providing improper financial assistance to a client.

In mitigation, the respondent and his wife were the sole caregivers for the respondent's father in law during an illness from the fall of 2009 until his death in February 2011, and during this period, the respondent lost his focus on his practice.

This matter came before the Board of Bar Overseers on the parties' stipulation of facts and rule violations and an agreed recommendation for discipline by public reprimand. On July 11, 2011, the board voted unanimously to accept the stipulation and impose the recommended discipline.