

**KEVIN ROBERT MURPHY****Public Reprimand No. 2012-016****SUMMARY**<sup>1</sup>

The respondent received a public reprimand for the conduct described below.

In July 2009, a client retained the respondent to submit a Form I-129 (a request for extension of non-immigrant status) for him, his wife and three children and to continue his employment as an HI-B specialty occupation worker as an accountant for a food market. The respondent had previously obtained a valid status and an H-1B on behalf of the client, his family and the market. The client's status and those of his family were valid through September 30, 2009. On September 25, 2009, just after receipt of necessary information from the market, the respondent filed an I-129 petition. The petition filed by the respondent was missing three pages, one of which required a signature. The petition was docketed by the Department of Homeland Security as received on Monday, September 28, 2009. By notice dated September 29, 2009, the petition was returned by the DHS to the respondent's office because of the missing pages. Despite knowing that the pleading was time sensitive, the respondent did not re-file it, with the missing pages and with a request for an extension of the deadline for filing, until October 9, 2009. DHS did not docket the re-filed petition as received until October 19, 2009, nineteen days after the expiration of the client's status. On February 1, 2010, DHS denied the extension of the time for filing and thus ruled the application was untimely.

On February 24, 2010, the respondent filed a Form-I-290 notice of appeal of decision, appealing the February 1, 2010 denial. The respondent filed the appeal because he believed that his client had been in substantial compliance in his original filing and was not otherwise in violation of his status. Thus, he believed that the appeal had merit. In his application, the respondent checked off a box that stated that he was filing an appeal and that he would file a brief and/or additional evidence within thirty days. However, the respondent did not file a brief or additional evidence within thirty days. On May 3, 2010, a notice of decision was

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<sup>1</sup>Compiled by the Board of Bar Overseers based on the record of proceedings before the board.

sent stating in part that there is no appeal from a denial of an application for extension because the granting of an extension of time is at the discretion of the Service. The decision stated that DHS would consider the appeal as a motion to reopen or a motion to reconsider. However, that motion was denied because the respondent did not submit additional evidence.

On July 22, 2010, the client retained successor immigration counsel after he moved with his family to the Washington D.C. area, where he has family and support. On July 22, 2010, the client's successor counsel made written request to the respondent for the client's file. The client, on divers times and occasions, also orally requested the file. On April 25, 2011, the respondent first produced the entirety of the file.

The respondent voluntarily returned a substantial portion of his fee. Successor counsel has diligently pursued various avenues for discretionary forgiveness.

The respondent's initial failure to adequately prepare the petition and his lack of diligence in correcting his errors, is conduct in violation of Mass. R. Prof. C. 1.1 and 1.3. The respondent's failure to timely remit his client's file upon request is conduct in violation of Mass. R. Prof. C. 1.16(e).

There were no factors in mitigation or aggravation. The respondent had no prior discipline.

This matter came before the board on a stipulation of facts and disciplinary violations and a joint recommendation for discipline by public reprimand. On August 13, 2012, the board accepted the parties' recommendation and imposed a public reprimand.