

**JOSEPH SPINALE****Public Reprimand No. 2013-14****Order (public reprimand) entered by the Board on August 21, 2013.****SUMMARY**¹

In 2010, a client hired the respondent to represent her in resolving a property dispute arising out of a neighbor's repeated trespass. The respondent was paid a retainer of \$2,350 for his services.

The respondent wrote the neighbor two letters to which the neighbor failed to respond, and the trespassing continued. The respondent drafted a complaint, as well as an affidavit for the client's signature. After receiving the signed affidavit from the client, the respondent did not file the complaint and affidavit and failed to perform any further work of substance in violation of Mass. R. Prof. C. 1.2 and 1.3.

The client repeatedly called the respondent, leaving telephone messages requesting information about her case. The respondent failed to reply to the client's requests for information and did not inform the client that he had not filed the complaint. By failing to respond to his client's requests for information and to advise the client that he had not filed the complaint, the respondent violated Mass. R. Prof. C. 1.4(a) and (b). The client terminated the respondent's services and demanded the return of the unearned portion of the fees she paid. The respondent returned the entire fee to the client.

In 2011, in a separate matter, a gasoline station owner hired the respondent to terminate the client's franchise agreement with the fuel supplier and to pursue damages against the company. The client paid the respondent his requested fee of \$15,000.

The respondent sent a letter on behalf of the client to the company terminating the franchise agreement, and the company in response sued the client in federal district court. The respondent filed by hand an answer and counterclaim on behalf of the client. The respondent failed to register with the federal court to receive electronic notification of docket entries, and he did not regularly check the court docket for notice of the court's orders. By failing to register to receive electronic notifications or to regularly check the court's docket, the respondent violated Mass. R. Prof. C. 1.1, 1.2 and 1.3.

The respondent agreed to a discovery schedule with opposing counsel, which the court adopted and entered as an order. The respondent propounded no discovery, and he failed to respond to discovery propounded by the fuel supplier or to notify the client of the discovery requests. The fuel company filed a motion for default judgment to which the respondent failed to file any opposition. The court entered an order of default and judgment of \$70,000 against

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

the client. The respondent did not inform the client of the judgment, which the client discovered on his own. The client discharged the respondent and retained new counsel, who was able to set aside the default judgment. The respondent's conduct violated Mass. R. Prof. C. 1.1, 1.2, 1.3, and 1.4.

On July 17, 2013, the parties filed with the Board of Bar Overseers a stipulation and joint recommendation that the respondent be publicly reprimanded on the condition that the respondent submit to fee arbitration, if requested by the client, and make payment within three months of any award to the client. On July 22, 2013, the Board of Bar Overseers voted to accept the parties' stipulation.