



ROLAND A.H. PHAM

Public Reprimand No. 2013-17

Order (public reprimand) entered by the Board on August 29, 2013.

SUMMARY¹

The respondent, Roland A.H. Pham, is an attorney duly admitted to the bar of the Commonwealth on December 11, 2003.

On August 15, 2009, the respondent's clients made a \$1000 deposit on an offer to purchase a home in Massachusetts. They engaged the respondent to represent them. The clients and the sellers signed a purchase and sale agreement on August 25, 2009, at which time the clients made a \$13,000 deposit.

The purchase and sale contained a mortgage contingency clause. If the clients were unable to obtain financing, and so notified the sellers by September 17, 2009, the sellers were obligated to return the deposit. As of September 16, 2009, the clients had not secured financing. They informed the sellers and requested an extension of the financing deadline to September 24, 2009. The sellers did not agree, but not return the deposit.

On or about October 5, 2009, the clients received a proposed amended purchase and sale agreement from the sellers. That agreement provided that if the clients were unable to finance the purchase by October 21, 2009, the deposit would be immediately released to the sellers. The respondent reviewed the proposed amended agreement with his clients, but failed to inform them that if they signed the agreement and were unable to purchase the property, they would have no right under the agreement to the return of the deposit. The clients signed the proposed amended purchase and sale agreement. As they had no financing in place on October 21, 2009, they were unable to purchase the property and lost their \$13,000 deposit.

By failing to advise the clients that by signing the amended purchase and sale agreement, they were likely forfeiting their right to a refund of the \$13,000 deposit if they did not obtain financing, the respondent failed to provide competent and diligent representation to his clients, in violation of Mass. R. Prof. C. 1.1 and 1.3.

In mitigation, the respondent suffered a debilitating medical condition in the latter half of 2009, which condition severely limited his ability to sit for extended periods of time, and thus

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

impacted his ability to practice. In aggravation, the respondent received an admonition in 2011 for continuing to represent a client while he was on inactive status.

The matter came before the Board of Bar Overseers on an agreed recommendation for discipline by public reprimand based on a stipulation of the parties. On August 26, 2013, the Board of Bar Overseers voted to administer a public reprimand to the respondent.