



Anthony Primo Facchini
Public Reprimand No. 2014–2
Order (public reprimand) entered by the Board March 11, 2014.
Summary¹

In February 2010, the client consulted the respondent regarding the filing of a bankruptcy petition. The client told the respondent that he was unemployed and that his only asset was a multi-family house that he owned as a tenant in common with his two siblings. The client told the respondent that his main concern was protecting his interest in the house.

The respondent and the client discussed a homestead declaration. The client did not know what a homestead declaration was or whether one had been filed. The respondent told the client that he would review the records at the registry of deeds to determine if such a declaration was on file. The respondent told the client that if no homestead declaration was on file, the respondent would file one prior to any bankruptcy filing. At the conclusion of their meeting, the client retained the respondent to prepare and file a Chapter 7 bankruptcy petition and related schedules.

The respondent's office prepared the client's bankruptcy petition and schedules. Schedule C erroneously listed the client's interest in the house as exempt property on the basis of a homestead declaration. In fact, such an exemption was not available because there was no homestead declaration on file with the registry of deeds. The respondent did not know this because he had failed to check the registry's records. In addition, the respondent failed to obtain the fair market value of the property, and Schedule C incorrectly identified the client's exempted interest as the value of the entire property when the client was only entitled to exempt the client's proportional share of the ownership.

When the client came to the respondent's office to sign the bankruptcy petition, the respondent reviewed the petition and the schedules with the client. The respondent did not inform the client that he had not checked the registry of deeds for the homestead declaration and that he had not filed one on behalf of the client. The client signed the petitions and schedules and the respondent electronically filed them with the bankruptcy court.

Shortly after the petition and schedules were filed, a Chapter 7 trustee was appointed. At a subsequent meeting of creditors, the trustee questioned the client about the declaration of

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

homestead exemption claimed in Schedule C. The client told the trustee that he did not know what a declaration of homestead was but that the respondent had filed one on his behalf. The trustee requested a copy of the recorded declaration of homestead.

When the respondent failed to provide the trustee with a recorded declaration of homestead, the trustee searched the records at the registry. The trustee confirmed that the client owed the property as a tenant in common with his two siblings but that there was no declaration of homestead on file.

The trustee filed with the bankruptcy court an objection to the client's claim for a homestead exemption. When the client received notice of the trustee's objection, he discharged the respondent and retained new counsel, who was able to resolve with the trustee all outstanding issues.

The respondent's failure to ensure that a declaration of homestead was recorded, and his failure to determine the fair market value of the house and to claim on the client's bankruptcy petition and schedules only the client's proportional share of the property violated Mass. R. Prof. C. 1.1, 1.2(a) and 1.3. The respondent's failure to advise the client prior to the client's signing the bankruptcy petition and schedules that the respondent had not confirmed that there was a homestead declaration filed with the registry of deeds and had not obtained a fair market value for the property violated Mass. R. Prof. C. 1.4(a) and (b).

The matter came before the Board of Bar Overseers on a stipulation of facts and rules violations and a joint recommendation that a sanction of a public reprimand be imposed. On February 24, 2014, the board voted to accept the stipulation of the parties and to administer a public reprimand to the respondent.