PAUL P. HAYES, JR.

Public Reprimand No. 2014-4

Order (public reprimand) entered by the Board April 2, 2014.

SUMMARY[1]

In July 2009, the respondent was appointed to represent a client on criminal charges pending in district court. The respondent represented the client at trial, which commenced in October 2009 and resulted in the dismissal of one charge, an acquittal on one charge, and a conviction on two charges. The client was sentenced to a thirty-month sentence and wanted to exercise his right to appeal the conviction.

The respondent failed to file a notice of appeal on the client's behalf. The respondent should have implemented the client's decision to appeal by timely filing a notice of appeal, a motion to withdraw, and a motion for the appointment of substitute counsel on appeal. The respondent should have ensured that the court acted upon these motions and he should have made a request for a trial transcript. As a result of the respondent's failure to file a notice of appeal, the client lost his right to appeal.

The client's case was subsequently reviewed by a bar advocate for the Committee for Public Counsel Services to determine whether to seek leave to file an appeal late. After review, the bar advocate determined that an appeal would not likely be successful, and the client decided not to pursue the matter further.

The respondent's failure to file a timely notice of appeal, a motion to withdraw, and a motion for the appointment of substitute counsel on appeal was in violation of Mass. R. Prof. C. 1.1, 1.2(a), and 1.3.

The respondent also failed to cooperate with bar counsel's initial request for information resulting in the issuance of a subpoena and ultimately an administrative suspension of the respondent on June 20, 2012. On July 16, 2012, the respondent, through counsel, began cooperating with bar counsel's investigation, and on July 19, 2012, the Court reinstated the respondent as a member of the bar. The respondent's conduct in knowingly failing without good cause to cooperate with bar counsel's investigation was in violation of Mass. R. Prof. C. 8.1(b), 8.4(g) and (h), and S.J.C. Rule 4:01, § 3.

The matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and a joint recommendation for discipline by a public reprimand. On March 24, 2014, the board voted unanimously to accept the stipulation and impose the recommended discipline.

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