



STEVEN C. SIEGEL

Public Reprimand No. 2016-2

Order (public reprimand) entered by the Board March 31, 2016.

SUMMARY¹

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

In October 2012, the United States Citizenship and Immigration Services placed an individual (the client) into removal proceedings for allegedly failing to maintain his non-immigrant status as a student. On October 11, 2012, the client retained the respondent to represent him before the Immigration Court (court) in Boston in his appeal of his voluntary departure order. The court scheduled an individual calendar hearing for April 17, 2015, to hear the client's appeal.

On April 4, 2015, the respondent advised the client that he would file a motion on his behalf to continue the hearing date based upon the client's prior assertion that he was in the process of moving to New York City and that it was important for him to be in New York on the day of the hearing.

The procedural rules for immigration courts require that all motions be filed fifteen days prior to a scheduled hearing and be accompanied by a proposed court order and a motion to file late if the filing falls within the fifteen-day period. The rules provide that an alien is not excused from attending a court hearing unless the court issues an order allowing his or her absence prior to hearing.

On April 8, 2015, the respondent filed a motion to continue the hearing. The filing did not include a proposed order or a motion to file late.

On April 14, 2015, the respondent emailed the client that he had filed the continuance motion and that he need not worry about appearing at the scheduled hearing before the court.

On April 16, 2015, after speaking with a clerk of the court, the respondent refiled the motion to continue and a proposed order, but failed to include a motion to file late. The

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

respondent did not advise his client that he had refiled the motion or that the client should attend the hearing.

On April 17, 2015, the respondent and the client failed to attend the hearing. The court issued an order for the client's removal from the United States due to his failure to attend the hearing.

The respondent was unaware of the procedural rules and practice as described above, and he did not research those rules or consult with experienced immigration counsel prior to attempting to obtain a continuance. On May 29, 2015, the United States Immigration and Customs Enforcement Office arrested and incarcerated the client as a result of the order.

On July 7, 2015, the court rescinded its prior order and reopened the client's appeal based upon the motion of successor counsel, which cited the ineffective assistance of the respondent in representing the client. On July 21, 2015, the client was released from prison without prejudice to pursuing his defense to the departure order.

The respondent's failure to file a timely motion with the court, to request that the court accept his late filing, to attend the hearing, to advise his client to attend the hearing, and to advise the client that he had refiled the motion to continue the day before the hearing, is conduct in violation of Mass. R. Prof. C. 1.2(a), 1.3 and 1.4, as in effect prior to July 1, 2015. The respondent's conduct in handling a matter he was not competent to handle, without consultation with counsel experienced in the subject area, is conduct in violation of Mass. R. Prof. C. 1.1, as in effect prior to July 1, 2015.

There were no factors in aggravation of the misconduct. In mitigation, the respondent referred the client to successor counsel and paid for his services. Successor counsel reopened the case, had the client released and restored to his previous position with the immigration court. The respondent had no prior discipline. The respondent agreed to attend and complete a CLE course on immigration court procedure prior to any further representation before the immigration court and to consult with more experienced counsel.

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