JOAQUIM F. SILVA
Public Reprimand No. 2016-5
Order (public reprimand) entered by the Board on July 21, 2016.
SUMMARY[1]

In 1989 and 2006, the respondent represented a long-time client and personal friend in transfers of her residence, the most significant asset of her personal estate. The client wanted to transfer the real estate to her two daughters, but remain in the home as long as she was able. One of the daughters lived in Massachusetts, near her mother, while the other daughter lived in Brazil.

After the first deed transferring the residence from the client to her two daughters, the respondent drafted and recorded two deeds. The first, in 1989, transferred the property from the two daughters to the client and her two daughters as tenants in common. The second deed, in 2006, transferred the property to the Massachusetts daughter individually and reserved a life estate for the client.

The respondent presented the two deeds to the daughter living in Massachusetts, who signed both with her signature and a signature purporting to be the signature of her sister. The respondent knew that the daughter living in Brazil had not signed the deeds, but understood that she had agreed to the transfers and had authorized her sister to sign the deeds on her behalf. The respondent nonetheless notarized the signatures and thereby intentionally misrepresenting that the daughter living in Brazil had signed the deeds in his presence. The respondent recorded both deeds.

The husband of the daughter living in Brazil learned about the transfers and brought a suit in equity against the Massachusetts daughter. The parties settled the matter.

By falsely notarizing the two deeds and causing them to be filed with the registry of deeds, the respondent violated DR 1-102(A)(1), (4) and (5) and DR 7-102(A)(5) (as to the 1989 deed) and Mass. R. Prof. C. 4.1(a) and 8.4(c) and (d) (as to the 2006 deed).

In mitigation, the respondent's misconduct did not involve fraudulent intent. The respondent believed that all the parties in interest agreed to the transfers. Specifically, the respondent understood that the parties agreed to the 2006 transfer to permit the Massachusetts daughter to dispose of the property, if necessary, to obtain funds for her mother's care.

The matter came before the Board of Bar Overseers on the parties' stipulation of facts and rule violations and an agreed recommendation for discipline by public reprimand. At its June 2016 meeting, the Board voted to accept the parties' stipulation and to impose a public reprimand.

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