IN RE: MATTER OF JOSEPH A. TORRA
BBO NO. 659950

COMMONWEALTH OF MASSACHUSETTS
BOARD OF BAR OVERSEERS
OF THE SUPREME JUDICIAL COURT

BAR COUNSEL, **Petitioner** **vs.** **JOSEPH A. TORRA, ESQ.,** **Respondent**	**B.B.O. File No. C2-20-00263138**

HEARING COMMITTEE REPORT

On February 11, 2022, bar counsel filed a Petition for Discipline against the respondent, Joseph A. Torra, Esq. After multiple extensions, the respondent filed his Answer on May 24, 2022. Bar counsel filed a motion to strike the Answer because it failed to comply with the Rules of the Board of Bar Overseers ("BBO Rules"). The motion was allowed and the respondent filed an Amended Answer on July 27, 2022. On March 10, 2023, bar counsel moved to amend the Petition for Discipline to add a charge involving the respondent's alleged misconduct in connection with selling title insurance to his real estate clients. The respondent opposed the motion but the then-Chair of the Hearing Committee allowed it.[1]

On April 6, 2023, bar counsel filed an Amended Petition for Discipline. On May 1, 2023, the respondent filed an Answer to the Amended Petition for Discipline. On October 10, 2023, bar counsel filed a Motion to Revoke Order of Reference to Hearing Committee based on the parties' proposed stipulated resolution of the matter. On November 13, 2023, the Board rejected

[1] A new hearing committee was later assigned on June 26, 2024.

the parties' stipulation.[2] On January 29, 2024, the parties filed a revised stipulation. On February 12, 2024, the Board rejected the parties' revised stipulation.[3, 4]

On July 24, 2024, the respondent filed an "Answer[5] to Amended Petition for Discipline and Request for Assignment Pursuant to BBO Rule 3.19(c)." Per the cited rule, the respondent admitted the factual allegations and rules violations charged in the Amended Petition for Discipline, relinquished his right to be heard in mitigation, and requested a hearing on disposition. The respondent further requested that the hearing on disposition take place before a panel of the Board or the full Board instead of before the assigned hearing committee. Bar counsel filed a limited opposition, objecting only to the respondent's request to revoke reference to the hearing committee on the basis that the matter was already assigned and should remain before the hearing committee. On August 7, 2024, the Board Chair denied the respondent's motion to remove the referral of the petition to a hearing committee. He ruled that the "matter shall remain with the hearing committee for appropriate proceedings in light of the admissions in the Respondent's Answer to the Amended Petition for Discipline."

The parties proposed, and the hearing committee chair allowed, a joint scheduling order. Pursuant to the order, the parties submitted briefs on disposition only on October 11, 2024. See BC Brief and Respondent Brief. The respondent submitted a reply memo on October 18, 2024. See Respondent Reply Memo. The hearing, for oral argument with respect to disposition only,

[2] A copy of the Board's November 13, 2023 vote is attached hereto as Exhibit A.

[3] A copy of the Board's February 12, 2024 vote is attached hereto as Exhibit B.

[4] We note that hearing committees are not normally aware of proposed stipulations between the parties. Stipulations are similar to settlement agreements in civil lawsuits, with the exception that they are subject to acceptance or rejection by the Board. See BBO Rules § 3.19(d)-(e). The parties' rejected stipulations are discussed briefly here due to the unusual procedural nature of the case and the fact that both parties discuss them in their briefs on disposition.

[5] Technically, this filing was an Amended Answer to the Amended Petition for Discipline because an Answer had already been filed in May 2023.

was held on November 7, 2024. No exhibits were admitted and no witnesses testified. At the close of the hearing, the respondent requested that he be allowed to make a statement to the committee. Bar counsel objected on the basis that under BBO Rule § 3.19(c), the respondent had admitted the facts and waived the right to present mitigating evidence and, therefore, any statement he made would be irrelevant and inadmissible. Tr. 55-56.[6] The hearing committee chair declined the request on the basis that the respondent waived an evidentiary hearing and admitted to the facts. Tr. 55-57.

Findings and Conclusions[7]

Findings of Fact

1. The respondent, Joseph A. Torra, Esq., is an attorney duly admitted to the Bar of the Commonwealth on June 16, 2004. Ans. ¶ 2.

2. In or about June 2019, Raffaele Prinzevalli and Christina Prinzevalli (together, "the Prinzevallis") retained the respondent to represent their interests in purchasing real property located in Wenham, Massachusetts. Ans. ¶ 2.

3. The closing on the Wenham real estate transaction occurred on or about September 30, 2019. Ans. ¶ 2.

4. The total fee that the respondent charged to the Prinzevallis for representing their interests in the Wenham real estate transaction was not less than $500. Ans. ¶ 2.

5. The respondent failed to communicate to the Prinzevallis in writing the scope of his representation and the basis or rate of his fee for the Wenham real estate transaction. Ans. ¶ 2.

[6] The transcript is referred to as "Tr. [page]."

[7] The respondent admitted all of the factual allegations in the Amended Petition for Discipline ("Amended PD"). See Amended PD, ¶ 2.

6. In connection with the Wenham real estate transaction, the respondent provided the Prinzevallis with a Settlement Statement (HUD-1) ("the HUD-1"). The HUD-1 was attached to the Amended PD as Exhibit A.[8] Ans. ¶ 2. We attach it here as Exhibit C.

7. On the HUD-1, the respondent knowingly misrepresented that the amount paid to Boston Survey, Inc. in connection with the Wenham real estate transaction[9] was two hundred dollars ($200.00). Ans. ¶ 2.

8. On or about the date of the closing on the Wenham real estate transaction, the respondent collected from the Prinzevallis the two hundred dollars ($200.00) that the respondent misrepresented as being payable to Boston Survey, Inc. Ans. ¶ 2.

9. The actual amount paid to Boston Survey, Inc. by the respondent in connection with the Wenham real estate transaction was one hundred and twenty-five dollars ($125.00). Ans. ¶ 2.

10. The respondent retained for his own use the seventy-five dollar ($75.00) difference between the misrepresented amount and the actual amount paid to Boston Survey, Inc. Ans. ¶ 2.

11. The respondent falsely certified that the HUD-1 was a true and accurate account of the transaction. Ans. ¶ 2.

12. The respondent falsely certified that he had caused or would cause the funds to be disbursed in accordance with the HUD-1. Ans. ¶ 2.

13. Beginning no later than August 2019 and continuing until at least May 2021, the respondent acted as settlement agent or clients in multiple real estate transactions in which he

[8] The HUD-1 contains the following language: "The HUD-1 settlement statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement."

[9] The HUD-1 identifies this fee as "Survey Fee, Plot Plan." See Exhibit C.

charged and collected plot plan review fees. In those real estate transactions, it was the respondent's standard practice to knowingly misrepresent on the respective real estate closing statements or disclosures (*i.e.*, HUD-1s or CDs) an amount paid to Boston Survey, Inc. for plot plan reviews that was greater than the amount actually paid to Boston Survey, Inc. Ans. ¶ 2.

14. In the real estate transactions described in paragraph 13 above, the respondent collected from the clients the amount that he misrepresented as being payable to Boston Survey, Inc. on or about the date of the closing on the respective real estate transaction. Ans. ¶ 2.

15. In the real estate transactions described in paragraph 13 above, above, the respondent transmitted the HUD-1s or CDs to his clients in the transactions. Ans. ¶ 2.

16. In accordance with his standard practice, during the month of August 2019 alone, the respondent knowingly misrepresented to his clients in thirty-eight (38) residential real estate transactions the amounts paid to Boston Survey, Inc. Ans. ¶ 2.

17. The difference between the misrepresented amount and the actual amount paid to Boston Survey, Inc. in the transactions described in paragraph 16, above, was approximately two thousand four hundred twenty-five dollars ($2,425).[10] The respondent retained the overcharges for his own use. Ans. ¶ 2.

18. In connection with the Wenham real estate transaction, the respondent sold and the Prinzevallis purchased title insurance. The respondent acted as the title insurance company's agent in the sale of the title insurance to the Prinzevallis. Ans. ¶ 2.

[10] During the hearing, there was argument from the respondent's counsel that, although in most cases the survey company charged $125 and the respondent kept the remaining $75, in some cases the survey company charged more than $125. That accounts for why the total amount of the overcharge is $2,425 versus the expected $2,850 ($75 overcharge multiplied by thirty-eight transactions). Tr. 9-10 (Respondent's Counsel). We recite this argument for explanatory purposes only and do not make a specific finding.

19. The Prinzevillis paid sixteen hundred dollars ($1,600) for the title insurance. The respondent was paid an 80% commission (*i.e.*, $1,280) on the sale of the title insurance to the Prinzevallis. Ans. ¶ 2.

20. The respondent did not disclose to the Prinzevallis that he was acting as the title insurance company's agent in the sale of the title insurance. The respondent did not advise the Prinzevallis in writing of the desirability of seeking the advice of independent counsel in the title insurance transaction. The respondent did not obtain, in a writing signed by the Prinzevallis, the Prinzevallis's informed consent to the essential terms of the title insurance transaction and the respondent's role in the transaction. Ans. ¶ 2.

21. In at least the thirty-eight (38) real estate transactions described in paragraph 16, above, the respondent also sold and the clients purchased title insurance. In each instance, the respondent acted as the title insurance company's agent in the sales of the title insurance. Ans. ¶ 2.

22. In at least the thirty-eight (38) real estate transactions described in paragraph 16, above, the total amount paid by the respondent's clients for the title insurance was over fifty-one thousand dollars ($51,000). The total commissions paid to the respondent for the sales of the title insurance to these clients was over forty thousand dollars ($40,000). In at least the thirty-eight (38) real estate transactions described in paragraph 16, above, the respondent did not disclose to the clients that he was acting as the title insurance company's agent in the sale of the title insurance. The respondent did not advise the clients in writing of the desirability of seeking the advice of independent counsel in the respective title insurance transactions. The respondent did not obtain the clients' informed consent to the essential terms of the respective title insurance

transactions and the respondent's role in the respective transactions in a writing signed by the clients. Ans. ¶ 2.

Conclusions of Law

23. By failing to communicate to the Prinzevallis in writing the scope of his representation and the basis or rate of his fee, the respondent violated Mass. R. Prof. C. 1.5(b)(1).[11] Ans. ¶ 2.

24. By charging his clients an unreasonable amount for expenses, the respondent violated Mass. R. Prof. C. 1.5(a).[12] Ans. ¶ 2.

25. By knowingly misrepresenting to clients the amounts paid to Boston Survey, Inc. on real estate closing documentation (*i.e.*, HUD-1s and CDs), overcharging clients for this item, and retaining the amount of the overcharges for his own use, the respondent violated Mass. R. Prof. C. 1.4(b),[13] and 8.4(c)[14] and (h).[15] Ans. ¶ 2.

26. By failing to fully disclose the title insurance transactions and terms in writings that could be reasonably understood by his clients, by failing to advise his clients in writing of the desirability of seeking independent counsel and affording them a reasonable opportunity to

[11] Rule 1.5(b)(1) provides, in pertinent part: "…the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing before or within a reasonable time after commencing the representation…"

[12] Rule 1.5(a) provides, in pertinent part: "A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee or collect an unreasonable amount for expenses."

[13] Rule 1.4(b) provides: "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

[14] Rule 8.4(c) provides that it is professional misconduct for a lawyer to "engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

[15] Rule 8.4(h) provides that it is professional misconduct for lawyer to "engage in any other conduct that adversely reflects on his or her fitness to practice law."

do so and/or by failing to obtain his clients' informed consent in writings signed by his clients, the respondent violated Mass. R. Prof. C. 1.8(a).[16] Ans. ¶ 2.

Matters in Mitigation and Aggravation

Mitigation

27. The respondent has waived his right to argue facts in mitigation.

Aggravation

28. Bar counsel did not propose, and we do not find, any factors in aggravation.

Recommended Disposition

Bar counsel recommends a two-year suspension, retroactive to the date of the respondent's first stipulation on October 10, 2023. The respondent recommended a public reprimand. We recommend a one-year-and-one-day suspension, with two months imposed and the remainder of the term stayed on conditions.

The respondent engaged in repeated misconduct in connection with representing buyers in residential real estate closings over the span of approximately twenty-one months. We face two distinct issues in this matter. The first is that it was the respondent's standard practice to intentionally overstate a common charge in real estate transactions on the HUD-1s, collect the overstated cost from his unknowing clients, pay the actual cost, and then keep the difference for his own use. Secondly, we confront an allegedly common practice in Massachusetts real estate

[16] Rule 1.8(a) provides: "A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction."

conveyancing – the closing attorney's sale of title insurance to buyers (his clients) without disclosing that he was acting as an agent of the title insurance company and would earn a commission on the sale.

Overcharges for Plot Plan Survey Fees

Starting with the first, and the more serious charge, we note that the Amended Petition for Discipline focused on the respondent's actions with regard to one particular set of clients, the Prinzevallis, who closed on their property in September 2019, as well as the thirty-eight closings that the respondent handled the prior month of August 2019. On the Prinzevallis' transaction, the respondent misrepresented on the HUD-1 that $200 was due to the survey company for a plot plan survey fee when the actual cost, and amount paid by the respondent to the survey company, was $125. The respondent signed his name certifying that the HUD-1 was a "true and accurate account of the transaction" and that he "caused or will cause the funds to be disbursed in accordance" with the HUD-1. Instead, he retained the difference between the overstated cost of the plot plan survey fee and the actual cost so that he could pocket an additional $75 from the transaction. Moreover, in the thirty-eight closings in August 2019, the respondent engaged in the same pattern of intentional misrepresentation and retained approximately $2,425 in overcharges for his own use. We concluded that this misconduct violated Mass. R. Prof. C. 1.4(b), 1.5(a), and 8.4(c) and (h).

Bar counsel proposed that the appropriate sanction range for intentional misrepresentations on multiple HUD-1s is a term suspension of between eighteen months to two years based on Matter of Barry D. Greene, 477 Mass. 1019, 1021, 33 Mass. Att'y Disc. R. 163 (2017). See BC Brief, pp. 7-8. However, Greene and its cited cases are distinguishable as more egregious because, with the exception of Matter of Foley, 26 Mass. Att'y Disc. R. 199 (2010),

they involved underlying fraudulent real estate transactions, which the respondent lawyers were aware of and participated in. See Greene, supra; cf. Foley, supra (the lenders' lawyer received an eighteen-month suspension for intentionally misrepresenting multiple terms on HUD-1s in twenty-four condo closings that occurred within a few week period; in addition, the lawyer never disclosed to his clients (the lenders) that he had previously helped form the seller corporation, nor had he obtained the lenders' consent to the conflict, in violation of Rule 1.7(b)). Here, the real estate transactions themselves were legitimate; the buyers were actually purchasing the properties. In addition, with respect to scope, the respondent here misrepresented only one specific fee on the form, the plot plan survey fees charged to the buyers (his clients). This is not to suggest that the respondent's misconduct was not significant, because it was. We are simply unpersuaded that his conduct was as severe as Greene or that it merits a suspension in the range of eighteen months to two years.

At the hearing, bar counsel proffered the case of Matter of Lenahan as the closest comparator to the respondent's admitted misconduct. Matter of Lenahan, 16 Mass. Att'y Disc. R. 242 (2000). In that case, during a one-year period, the respondent engaged in almost identical, but somewhat enhanced, misconduct when he intentionally overstated the cost of both title insurance policies and mortgage plot plans on HUD-1s, collected the fees from the buyers, and kept the difference between the actual costs and the amounts listed on the HUD-1s. However, Lenahan also committed additional misconduct by holding client funds in non-interest-bearing accounts, commingling funds, failing to maintain adequate records, and unintentionally overcharging buyers for title exams and rundown and recording services.[17] A hearing committee recommended that the respondent be suspended from the practice of law for a year and a day.

[17] Moreover, there was one mitigating and one aggravating factor.

Both parties appealed and ultimately entered a stipulation for a term suspension of two-and-one-half years, which was accepted and entered by the Single Justice. Id.

Although Matter of Lenahan involves a unique resolution, where the parties stipulated to a much lengthier suspension than that recommended by the hearing committee, we consider it particularly instructive. It involves the identical misconduct we confront here: intentionally overstating a charge to clients on HUD-1s and keeping the difference. However, the lawyer there overstated more than a single charge on the closing documents and committed additional misconduct. Without question, the Lenahan case involved cumulatively more misconduct, which is perhaps what ultimately caused the parties to stipulate to the lengthier suspension.

We contrast Matter of Lenahan with Admonition No. 21-14, where the lawyer charged his clients a flat fee to receive wired funds on their behalf to his IOLTA accounts. Once he received the funds, the lawyer then wired them to the account of the client or third parties, often out of the country. Although one of his IOLTA accounts charged wiring fees and one did not, the lawyer charged every client the wiring fee, regardless of which account the wired funds went into. The lawyer received an admonition for violating Rule 1.5(a) by charging clients for expenses not incurred or for clearly excessive fees. We distinguish Ad. No. 21-14 on two grounds. First, that lawyer was not intentionally misrepresenting and then certifying the "accuracy" of his charges in writing on a HUD-1 as the respondent did. Although the certification was not "under oath," we are disturbed by the respondent's willingness to knowingly and inaccurately certify these forms in at least thirty-nine closings (and, likely, hundreds more). Secondly, unlike the respondent, the lawyer who received the admonition was not intentionally overcharging on every occasion because sometimes the bank did charge him a

wiring fee. For these reasons, especially the similarities with Lenahan, we are convinced that a term suspension is in order.

As a final thought, we are troubled by the respondent's description of the overstated charges, in his brief on disposition, as "de minimis" as well as his assertion that "the excess amounts were small and caused little harm to the client and no harm to the lender." Respondent Brief, pp. 6 and 8. No amount of money, effectively misappropriated from a client by a lawyer, is de minimis. We want to be clear that we do not consider this ethical transgression to be trivial. Further, the respondent's actions were not "negligently misleading" as he initially characterized them (Respondent Brief, p.8)—they were intentionally misleading. See Tr. 20-21 (Respondent's Counsel, conceding at the hearing that the respondent's conduct with respect to the survey fees was "intentional misrepresentation"). The respondent intentionally overstated the plot plan survey fees and failed to disclose the actual fee or that he was keeping the difference. This systematic practice affected thirty-eight real estate clients in one month alone. When we extrapolate over the entire twenty-one-month period, this practice must have affected hundreds of clients resulting in the small amounts siphoned off from each transaction becoming cumulatively substantial. We agree with bar counsel's contention that the respondent's misconduct here was "inherently dishonest." BC Brief, p. 8.

Undisclosed Commissions on Title Insurance Policies

The second issue in this matter—the undisclosed commissions on title insurance policies—has received moderate press attention in the both the real estate community and the region at large.[18] In addition to representing the buyers in the real estate transaction, the respondent sold title insurance as an agent for a title insurance company. Title insurance policies

[18] We take administrative notice of this fact but do not consider it as a factor in aggravation here.

provide protection for buyers and lenders "against defects in, or liens or encumbrances on, title." Real Est. Bar Ass'n for Massachusetts, Inc. v. Nat'l Real Est. Info. Servs., 459 Mass. 512, 528 (2011), quoting Somerset Sav. Bank v. Chicago Title Ins. Co., 420 Mass. 422, 428 (1995). We know from our own experience that the purchasing of title insurance by buyers in a real estate transaction is a common, and generally recommended, practice.

While it is not prohibited for a lawyer to sell title insurance, even to buyers he is representing in the real estate transactions, the respondent's ethical misstep was that he entered into these business transactions with clients without meeting the strict conditions of Rule 1.8(a). Entering into business transactions with clients presented a conflict of interest for the respondent: his own financial interest in completing the transactions inherently limited his ability to offer unimpaired representation to the buyers. In order to proceed in the face of this conflict, the respondent was required to take certain actions under Rule 1.8(a). First, he was required to disclose to his clients (the buyers), in writing, that he was acting as the title insurance company's agent in the sale, rather than as their attorney, and would receive an 80% commission. Secondly, he needed to advise his clients, in writing, of their right to seek the advice of independent counsel about the sale as well as obtain his clients' informed written consent to the transaction. He failed to do so. In the month of August, 2019 alone, the respondent sold title insurance to his clients in thirty-eight transactions and he received over $40,000 in commissions, representing an 80% commission on each sale of a title insurance policy. We concluded that this misconduct violated Mass. R. Prof. C. 1.8(a).

The typical sanction for a violation of Rule 1.8(a) ranges from an admonition to a short suspension. Ad. 08-19 (admonition for a lawyer who purchased a condo from his client without informing her that he was not representing her in the matter; the terms were fair and reasonable

to the client but the lawyer failed to disclose all the terms in writing and did not give the client opportunity to seek the advice of independent counsel); Matter of Lathrop, 24 Mass Att'y Disc. R. 420 (2008) (stipulation to a public reprimand for lawyer who borrowed $2,000 from a client and sought to credit the debt against the attorney's fees the client owed him; violation of Rule 1.8(a) to enter into this business transaction with a client without obtaining the client's informed written consent); Matter of Mullen, 26 Mass. Att'y Disc. R. 378 (2010) (stipulation to a six-month suspension for creating estate plan advising client to purchase annuities on which the lawyer received a significant commission ($42,000) without full disclosure to the client and obtaining her informed consent; aggravated by prior discipline, mitigated by lack of harm because the transactions were reversed and the lawyer refunded his full fee). Typically, the longer suspensions are reserved for lawyers who take advantage of their clients by entering into entirely predatory transactions which are highly unfavorable to them. See Matter of Lupo, 447 Mass. 345, 22 Mass. Att'y Disc. R. 513 (2006) (indefinite suspension for a real estate lawyer, also a real estate broker, where he, inter alia, deliberately misrepresented the amount of his commission to elderly sisters to induce them to sign a listing agreement and did not obtain their informed consent; additional misconduct where the lawyer convinced his aunt to convey her house to him where the terms of the transaction were not fair and reasonable to her, not fully disclosed, and she was not given the opportunity to seek the advice of independent counsel; multiple factors in aggravation; restitution ordered before the lawyer would be permitted to petition for reinstatement); Matter of Ferris, 9 Mass. Att'y Disc. R. 110 (1993) (three-year suspension for lawyer who induced trustee clients to loan $50,000 to him on terms unfavorable to the trust).

We take administrative notice that in December 2022, after the events at issue here, the Office of Bar Counsel ("OBC") published an article on its website, www.massbbo.org, entitled "The Cost of Doing Business (With a Client)." The article addressed the sale of title insurance by real estate attorneys and put the real estate bar on notice that OBC intends to investigate these business transactions more robustly and prosecute practitioners if they do not comply with the express requirements of Rule 1.8. The respondent argues that the article is the first notice that Rule 1.8(a) requires a real estate closing attorney to disclose commissions received from a title insurance company. See Respondent Brief, pp. 2-3. We disagree with the respondent. As noted by bar counsel, since 2015, comment 1 to Rule 1.8(a) has stated expressly: "The Rule applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of title insurance or investment services to existing clients of the lawyer's legal practice." See BC Brief, p.11 n.1. Lawyers are required to know the Rules of Professional Conduct and those Rules are enforceable even if no lawyer has previously been sanctioned for it. See Matter of Knight, 495 Mass. 1038, 1042, 41 Mass. Att'y Disc. R. __ (2025), citing Matter of Hrones, 457 Mass. 844, 855, 26 Mass. Att'y Disc. R. 252 (2010), quoting Matter of the Discipline of an Attorney, 392 Mass. 827, 835 (1984) ("[t]here have been, and will be, few cases of unethical conduct where we consider it relevant that an offending attorney was not aware of the disciplinary rules or their true import."); Matter of Lake, 428 Mass. 440, 444, 14 Mass. Att'y Disc. R. 418 (1998), citing Matter of Fordham, 423 Mass. 481, 494, 12 Mass. Att'y Disc. R. 161 (1996), cert. den. sub. nom. Fordham v. Mass. Bar Counsel, 519 U.S. 1149 (1997) ("…this court has held that the fact that we have not previously had occasion to discipline an attorney in the circumstances of a particular case does not suggest that the imposition of discipline in that case offends due process.").

The respondent also argued that there is an ambiguity in the rules. See Respondent Brief, pp. 2-3. He claims that the comments to Rule 5.7 (specifically comments [1] and [5]) "appear to opine that Rule 1.8(a)…applies only to circumstances where the lawyer has an interest in the outside entity such as a title insurer." In other words, that there is only a conflict if the lawyer has an ownership interest in the title insurance company. We do not agree. Comment 1 to Rule 5.7 explicitly states, "When a lawyer performs law related services or controls an organization that does so, there exists the potential for ethical problems." (emphasis added). The comment, on its face, applies whenever a lawyer performs law related services, whether or not he/she has any ownership interest in the organization that provides the service. Finally, we also cannot justify the respondent's conduct on the basis of his claim that what he did is standard practice in the industry. A violation is a violation, regardless of who else is doing it.

Bar counsel urges us to recommend a public reprimand or short suspension for the Rule 1.8 violation. In fairness, however, we determine that this violation should be treated more leniently now than it will be in the future. See Matter of Moore, 442 Mass. 285, 295 (2004) (while finding that the disbarment judgment ordered by the single justice was markedly disparate from the results in similar cases, the court noted that "…in the future, we intend to impose much harsher sanctions, including disbarment…"). Cf. Matter of Danilo Jose Gomez, 38 Mass. Att'y Disc. R. 161 (2022) ("…this court has recognized that, where an attorney's misconduct presents an issue of first impression, it may be appropriate to impose a relatively lenient sentence while future similar misconduct would receive a more severe sanction."), citing Matter of Discipline of an Attorney, 392 Mass. 827, 837 (1984) ("…an offending attorney, in any case where the misconduct occurs after the date of this opinion, will have a heavy burden to demonstrate to the court that sanctions as recommended here by the Board and Bar Counsel should not be

imposed."). For this reason, we have considered the title insurance violation in our sanction but it has not appreciably increased our recommendation.

Finally, the respondent did not have a written fee agreement with the Prinzevallis.[19] This misconduct violated Mass. R. Prof. C. 1.5(b)(1). An admonition is the typical sanction for failure to have a written fee agreement. Ad. No. 22-26, 38 Mass. Att'y Disc. R. 664 (2022).

Conclusion

In determining the appropriate sanction to recommend, we are mindful that "[t]he primary purpose of the disciplinary rules and accompanying proceedings is to protect the public and maintain its confidence in the integrity of the bar and the fairness and impartiality of our legal systems." Matter of Foster et al., 492 Mass. 724, 746, 39 Mass. Att'y Disc. R.__ (2023). While each case needs to be decided "'on its own merits and every offending attorney must receive the disposition most appropriate in the circumstances,'" Matter of Foley, 439 Mass. 324, 333, 19 Mass. Att'y Disc. R. 141, 152 (2003) (citation omitted), we "need not endeavor to find perfectly analogous cases, nor . . . concern ourselves with anything less than marked disparity in the sanctions imposed." Matter of Hurley, 418 Mass. 649, 655 (1994).

Real estate lawyers are very visible to the public. For many people, a real estate lawyer might be their only personal contact with a lawyer and receiving legal services. We must consider a sanction substantial enough to deter other lawyers from similar conduct and ensure the public's trust in the system, particularly as real estate transactions typically involve clients signing mountains of paperwork that they may or not read or understand on their way to home ownership. See Matter of Zankowski, 487 Mass. 140, 149, 37 Mass. Att'y Disc. R. 554 (2021) (internal citations omitted) (holding that the court must consider "what measure of discipline is

[19] It is to unclear in the record if he had written fee agreements in the other thirty-eight closings.

necessary to protect the public and deter other attorneys from the same behavior."). We believe a term suspension in line with the one-year-and-one day suspension recommended by the hearing committee in Lenahan would be appropriate. In addition, although not precisely mitigating, we observe and credit that the respondent promptly acknowledged his misconduct and sought to resolve this matter early and efficiently including by foregoing an evidentiary hearing. Given the totality of the circumstances, we believe that two months of the suspension should be imposed and the remainder stayed on the conditions set forth below. See Matter of Pudlo, 460 Mass. 400, 27 Mass. Att'y Disc. R. 736 (2011) (term suspension of one year, with six months stayed on the condition that he provide reports of his trust accounts quarterly for two years, where lawyer negligently misused advanced funds for legal fees and expenses). If the respondent fails to comply with the conditions, we believe a reinstatement hearing would be warranted.

Bar counsel has proposed that the respondent be ordered to make restitution to the clients who were intentionally overcharged the plot plan survey fee. However, he limited this recommendation solely to those clients who closed on their transactions during the month of August 2019, for a total amount of restitution of $2,425. Yet, the respondent's misconduct spanned approximately twenty-one months—from August 2019 through May 2021. It is not fair or just for us to order restitution to the lucky few clients who happened to close on their real estate transactions in August 2019. The respondent must make restitution to all of his real estate clients who were overcharged for the relevant period. See Matter of Hoffman, 40 Mass. Att'y Disc. R. __ (2024) (the Single Justice ordered the respondent to make restitution), citing S.J.C. Rule 4:01, § 24 (the court or the Board may order a respondent to make restitution to those persons financially injured by his or her conduct). The respondent shall review his real estate

transactions for that period and provide proof of reimbursement of excess plot plan survey fees to bar counsel.

For the foregoing reasons, we recommend that the respondent, Joseph Torra, be suspended from the practice of law for the term of one-year-and-one-day, with two months imposed and the remainder stayed on the conditions that (1) he make restitution to all of his clients that he overcharged for plot plan survey fees from August 2019 through May 2021, and (2) upon resumption of practice he submit to bar counsel for review, every three months for one year, all HUD-1s and Closing Disclosure forms for each real estate transaction he closes.

Dated: May 27, 2025

Respectfully submitted,
By the Hearing Committee,

Joseph Baldiga
Joseph Baldiga, Esq., Chair

Gabriel Dym
Gabriel Dym, Esq., Member

Neal Goins
Neal Goins, Member

BOARD OF BAR OVERSEERS

of the Supreme Judicial Court
99 HIGH STREET
BOSTON, MASSACHUSETTS 02110
617-728-8700
Fax: 617-482-8000
massbbo.org

In accordance with the Rules of the Board of Bar Overseers, at its meeting held November 13, 2023, the Board of Bar Overseers considered the record in re **Matter of Joseph A. Torra** (C2-20-00263138). After consideration and upon Motion duly made and seconded, it was

VOTED: to reject the stipulation on the grounds that on the facts of this case, the misconduct regarding Rule 1.8(a)/title insurance would not be worthy of discipline since it occurred prior to December 15, 2022, when the Office of Bar Counsel published an article warning against this type of misconduct. The parties should submit a new stipulation based solely on the misconduct concerning the survey costs wrongfully charged to the clients.

(Two members voted against the Motion, preferring to accept the stipulation.)

Frank E. Hill, III

Frank E. Hill, III
Secretary

BOARD OF BAR OVERSEERS

of the Supreme Judicial Court
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In accordance with the Rules of the Board of Bar Overseers, at its meeting held February 12, 2024, the Board of Bar Overseers considered the record in re **Matter of Joseph A. Torra** C2-20-00263138). After consideration and upon Motion duly made and seconded, it was

VOTED: to reject the stipulation for the reasons the prior stipulation was rejected.

(One member voted against the Motion, preferring to accept the stipulation.)

(Ms. Allen recused herself from the discussion and vote.)

Frank E. Hill, III

Frank E. Hill, III
Secretary

OMB Approval No 2502-0265

A. Settlement Statement (HUD-1)

B. Type of Loan

1. ☐ FHA	2. ☐ RHS	3. ☐ Conv. Unins.	6. File No. 2019-472	7. Loan No. 1907118009	8. Mortgage Insurance Case No.
4. ☐ VA	5. ☐ Conv Ins.				

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. Name & Address of Borrower:	E. Name & Address of Seller:	F. Name & Address of Lender:
Raffaele Prinzivalli and Christina A. Prinzivalli 190 Boston Street Middleton, MA 01949	Francis X. Devaney, Trustee of The 116 Topsfield Road Wenham Realty Trust dated April 27, 1996 116 Topsfield Road Wenham, MA 01984	Total Mortgage Services, LLC 185 Plains Road Milford, CT 06461
G. Property Location: 116 Topsfield Road Wenham, MA 01984	H. Settlement Agent: Law Offices of Joseph A. Torra Place of Settlement: 40 Salem Street 10 Lynnfield, MA 01940	I. Settlement Date: 09/30/2019 Funding Date: 09/30/2019 Disbursement Date: 09/30/2019

J. Summary of Borrower's Transaction

100. Gross Amount Due from Borrower	
101. Contract sales price	$400,000.00
102. Personal property	
103. Settlement charges to borrower (line 1400)	$3,865.00
104.	
105.	
Adjustment for items paid by seller in advance	
106. City/Town Taxes 09/30/2019 to 10/01/2019	$17.98
107. County Taxes	
108. Assessments	
109.	
110.	
111.	
112.	
120. Gross Amount Due from Borrower	**$403,882.98**
200. Amount Paid by or in Behalf of Borrower	
201. Deposit	$20,000.00
202. Principal amount of new loan(s)	
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
Adjustments for items unpaid by seller	
210. City/Town Taxes	
211. County Taxes	
212. Assessments	
213.	
214.	
215.	
216.	
217.	
218.	
219.	
220. Total Paid by/for Borrower	**$20,000.00**
300. Cash at Settlement from/to Borrower	
301. Gross amount due from borrower (line 120)	$403,882.98
302. Less amounts paid by/for borrower (line 220)	$20,000.00
303. Cash ☒ From ☐ To Borrower	$383,882.98

K. Summary of Seller's Transaction

400. Gross Amount Due to Seller	
401. Contract sales price	$400,000.00
402. Personal property	
403.	
404.	
405.	
Adjustment for items paid by seller in advance	
406. City/Town Taxes 09/30/2019 to 10/01/2019	$17.98
407. County Taxes	
408. Assessments	
409.	
410.	
411.	
412.	
420. Gross Amount Due to Seller	**$400,017.98**
500. Reductions in Amount Due to Seller	
501. Excess deposit (see instructions)	
502. Settlement charges to seller (line 1400)	$1,899.00
503. Existing loan(s) taken subject to	
504. Payoff of First Mortgage	
505. Payoff of Second Mortgage	
506.	
507. Earnest deposit retained	$20,000.00
508.	
509.	
Adjustments for items unpaid by seller	
510. City/Town Taxes	
511. County Taxes	
512. Assessments	
513.	
514.	
515.	
516.	
517.	
518.	
519.	
520. Total Reduction Amount Due Seller	**$21,899.00**
600. Cash at Settlement to/from Seller	
601. Gross amount due to seller (line 420)	$400,017.98
602. Less reductions in amounts due seller (line 520)	$21,899.00
603. Cash ☒ To ☐ From Seller	$378,118.98

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

R.P CP FD

L. Settlement Charges

700. Total Real Estate Broker Fees		Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
Division of commission (line 700) as follows:			
701. $12,000.00 to The North Shore Realty Group			
702. $8,000.00 to Century 21 North East			
703. Commission paid at settlement			
704. Earnest deposit retained: $20,000.00			
705.			
800. Items Payable in Connection with Loan			
801. Our origination charge	(from GFE #1)		
802. Your credit or charge (points) for the specific interest rate chosen	(from GFE #2)		
803. Your adjusted origination charges	(from GFE #A)		
804. Appraisal fee	(from GFE #3)		
805. Credit report	(from GFE #3)		
806. Tax service	(from GFE #3)		
807. Flood certification	(from GFE #3)		
808.			
809.			
810.			
811.			
900. Items Required by Lender to be Paid in Advance			
901. Daily interest charges from 09/30/2019 to 10/01/2019	(from GFE #10)		
902. Mortgage insurance premium	(from GFE #3)		
903. Homeowner's insurance	(from GFE #11)		
904.			
1000. Reserves Deposited with Lender			
1001. Initial deposit for your escrow account	(from GFE #9)		
1002. Homeowner's insurance			
1003. Mortgage insurance			
1004. Property taxes			
1005.			
1006.			
1007. Aggregate Adjustment $0.00			
1100. Title Charges			
1101. Title services and lender's title insurance	(from GFE #4)	$1,575.00	
1102. Settlement or closing fee to Law Offices of Joseph A. Torra $1,100.00			
1103. Owner's title insurance to Stewart Title Guaranty Company	(from GFE #5)	$1,600.00	
1104. Lender's title insurance to Stewart Title Guaranty Company			
1105. Lender's title policy limit $			
1106. Owner's title policy limit $400,000.00			
1107. Agent's portion of the total title insurance premium to Law Offices of Joseph A. Torra $1,280.00			
1108. Underwriter's portion of the total title insurance premium to Stewart Title Guaranty Company $320.00			
1109. Survey Fee, Plot Plan to Boston Survey, Inc. $200.00			
1110. Title Exam Fee to First Land Title Company $225.00			
1111. Rundown and Record Fee to Law Offices of Joseph A. Torra $50.00			
1112.			
1200. Government Recording and Transfer Charges			
1201. Government recording charges	(from GFE #7)	$190.00	
1202. Deed $125.00 Mortgage $ Release $ to Essex (Southern District) Recording Recording Office			
1203. Transfer taxes	(from GFE #8)		
1204. City/County tax/stamps Deed $ Mortgage $			
1205. State tax/stamps Deed $1,824.00 Mortgage $ to Essex (Southern District) Recording Recording Office			$1,824.00
1206. Municipal Lien Certificate to Essex (Southern District) Recording Recording Office $65.00			
1207. Trustee Certificate to Essex (Southern District) Recording Recording Office			$75.00
1300. Additional Settlement Charges			
1301. Required services that you can shop for	(from GFE #6)	$500.00	
1302. Buyer Representation fee to Law Offices of Joseph A. Torra $500.00			
1303.			
1304.			
1305.			
1306.			
1307.			
1308.			
1309.			
1310.			
1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)		$3,865.00	$1,899.00

R.P CP FD

Signature Addendum

Raffaele Prinzivalli — Date: 9-30-19

Christina A. Prinzivalli — Date: 9/30/19

The 116 Topsfield Road Wenham Realty Trust dated April 27, 1996

By: Francis X Devaney Trustee, by POA — Date: 9/30/19

Francis X. Devaney, Trustee

The HUD-1 settlement statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this ~~statement~~

Settlement Agent — Date: 9/30/19