

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

BAR COUNSEL,
Petitioner,
v.
John Thomas Gosselin, Esq.,
Respondent

Public Reprimand No. 2022-26

ORDER OF PUBLIC REPRIMAND

This matter came before the Board on a Petition for Discipline and a Stipulation of the Parties waiving hearing and requesting that the matter be resolved by the imposition of a public reprimand. On September 12, 2022, the Board voted to accept the stipulation of the parties and their joint recommendation. It is ORDERED and ADJUDGED that John Thomas Gosselin be, and he is, publicly reprimanded. A summary of the charges giving rise to the reprimand is attached to this order.

Whereupon, pursuant to Supreme Judicial Court Rule 4:01, Section 8(3), and the Rules of the Board of Bar Overseers, Section 3.56, it is ORDERED AND ADJUDGED that John Thomas Gosselin, be and hereby is PUBLICLY REPRIMANDED.

/s/ Elisabeth O. da Silva, CPA, CFF
BY: _____
 , Member
 BOARD OF BAR OVERSEERS

DATED: October 12, 2022

JOHN THOMAS GOSSELIN

BBO # 567155

Public Reprimand No. 2022-26

Order (Public Reprimand) entered by the Massachusetts Board of Bar Overseers of the Supreme Judicial Court on October 12, 2022.

The respondent stipulated to a public reprimand for engaging in an improper business transaction with and charging a clearly excessive fee to an elderly client.

SUMMARY¹

The respondent represented an elderly client in certain probate and estate planning matters. The respondent also performed non-legal services for the client which included: (1) assisting his client in transitioning from a skilled-nursing facility to her private residence where she would obtain home care after a serious fall; (2) paying certain bills; and (3) performing certain banking activities as her power of attorney.

The respondent operated a business called Senior Living Services Group (“SLSG”), which provided elder care coordination services to the client and was affiliated with his law firm. The respondent provided the eldercare services to the client pursuant to an agreement that provided for SLSG to (1) coordinate with vendors who provided services to the client (such as home care vendors); (2) receive and pay the vendor’s invoices from funds the respondent held in trust for the client; and (3) pay the respondent as owner of SLSG a 20 percent administrative fee on each invoice paid (“SLSG Agreement”). SLSG had no employees and operated exclusively through the respondent and other employees of his law firm. These services constituted “law-related services” as defined by Mass. R. Prof. C. 5.7(a) and were thus subject to the Massachusetts Rules of Professional Conduct.

The SLSG Agreement was a business transaction between the client and the respondent in which the respondent obtained a pecuniary interest adverse to the client, as defined by Mass. R. Prof. C. 1.8. The terms of the SLSG arrangement were unfair and unreasonable to the extent that they permitted the respondent to collect a 20% administrative fee on any vendor invoice submitted regardless of the amount of the vendor bill or the amount of work performed by SLSG. The respondent failed to obtain his clients’ informed consent to the SLSG transaction in a writing containing the essential terms of the transaction; namely, the services to be covered by the SLSG 20% administrative fee versus the respondent’s legal fees; the respondent’s collection of the 20% administrative fee regardless of the amount of work performed by SLSG; and the potential conflicts of interest relating to the SLSG Agreement. In particular, the SLSG Agreement permitted the respondent to collect 20 percent on the home care vendor bills which ranged from \$11,000 to \$13,000 on a bi-weekly basis regardless of how much or little work SLSG performed.

¹ Compiled by the Massachusetts Board of Bar Overseers’ Office of General Counsel based on the record of proceedings before the board.

Upon the respondent's payment of vendor invoices, and upon the respondent's payment to himself as SLSG, the respondent provided the client with invoices that failed to contain a statement of the balance of the client's trust funds. Further, the invoices did not differentiate the amount paid to the vendors versus the amount paid the respondent as SLSG.

Additionally, the respondent charged the client at his hourly attorney rate for certain non-legal services performed as power of attorney and certain eldercare coordination services that were redundant to services performed under the SLSG Agreement. These fees were clearly excessive.

After the client's trust funds were exhausted, she terminated the respondent.

By failing to explain the services to be performed by SLSG to the extent reasonably necessary for the client to make an informed decision about entering into the SLSG agreement, the respondent violated Mass. R. Prof. C. 1.4(b).

By failing to explain to the client which services would be charged as legal services versus which would be charged through the SLSG administrative fee, the respondent violated Mass. R. Prof. C. 1.4(b) and 1.5(b).

By entering into a business transaction with a client where the terms were not fair and reasonable to the client, were not fully disclosed and transmitted in writing to the client in a manner that could be reasonably understood by the client, where the client was not advised to seek the advice of independent counsel, and the client did not provide informed consent, the respondent violated Mass. R. Prof. C. 1.8(a)(1),(2), and (3).

By charging and collecting clearly excessive fees, the respondent violated Mass. R. Prof. C 1.5(a).

By failing to provide a written statement of the balance of the client's funds in the trust account on or before the date of withdrawing the respondent's fees, the respondent violated Rule 1.15(d)(2).

The respondent was admitted to practice in 1994 and had no prior disciplinary history. In mitigation, the respondent returned to the client all fees he collected (including those billed as legal fees and those billed through SLSG). Additionally, the respondent returned to the client all fees that respondent paid from the client's accounts to the home care vendor.

This matter came before the Board of Bar Overseers on a stipulation of the parties and an agreed recommendation for discipline in the form of a public reprimand. On September 12, 2022, the Board of Bar Overseers voted to accept the stipulation and to administer a public reprimand to the respondent.