

IN RE: GREGORY J. CURCIO.

S.J.C. Order of Term Suspension entered by Justice Cowin on May 16, 2007, with an effective date of June 15, 2007.¹

(Judgment of Reinstatement entered by Justice Cowin on January 07, 2008.)

SUMMARY²

The respondent received a six-month suspension from the practice of law for neglecting and harming his clients, for making misrepresentations to his clients to conceal his neglect, for failing to safeguard the clients' file, and for failing to cooperate with Bar Counsel's investigation.

In September 2002, the respondent undertook to represent the clients, a husband and wife, in their tax matters before the IRS. The respondent executed an agreement for an \$8,000 flat fee, and agreed, among other things, to submit an offer in compromise to the IRS, perform audit or appeal work, and endeavor to obtain release of levies, holds or extensions on collection activity.

Within two weeks of executing the retainer agreement, the respondent vacated his office space without informing the clients, and failed to provide the clients with his new office address. In October 2002, the clients attempted to contact the respondent at the telephone numbers on his business card, but learned the telephone numbers were disconnected.

In October 2002, the respondent represented to his clients that he filed the offer in compromise with the IRS. The clients asked the respondent to provide them with a copy of their tax file that had been forwarded to him by their accountant. The respondent agreed to send them a copy of their file, but failed to do so.

Despite repeated requests from the clients, the respondent failed to provide an updated office address and telephone number. In November 2003, the clients discovered a post office box address for the respondent. By letter, the clients requested information on the status of their case and asked for a copy of their file. They expressed their concern about the respondent's failure to communicate with them and to provide working telephone numbers or an office address. The respondent contacted his clients and informed them there was no change in the status of their case.

In or about January 2004, the respondent sent the clients a copy of their former accountant's file, but failed to send them a copy of any work he had performed on their case, including a copy of the requested offer in compromise. In March 2004, the IRS notified the respondent and the clients that the offer in compromise was rejected. The respondent recommended to the clients that he file amended tax returns for two years. The respondent required an additional fee of \$400. In April 2004, the clients paid the respondent as requested. However, the respondent failed to file the amended tax returns.

In September 2004, the respondent lost the clients' file while moving, and never notified the clients. The clients informed the respondent that they had contacted the IRS and were

informed that their amended returns had not been received. The clients demanded the respondent forward them a copy of their amended returns. In October 2004, the respondent claimed to his clients that he had mailed the amended tax returns in or about the end of May 2004, and that he would follow up with the IRS. The respondent failed to do so.

Over the next month, the clients made numerous requests to the respondent for a copy of their amended tax returns. The respondent failed to provide the clients with a copy of their returns. Finally, the clients were required to retain an accountant, who filed an amended tax return and obtained abatements.

The respondent's failure to keep the clients reasonably informed about the status of their case so that they could make informed decisions and his failure to promptly comply with requests for information including his failure to inform them he was moving his office, to provide them with his new address and to inform them that he lost their file, violated Mass. R. Prof. C. 1.4(a) and (b).

The respondent's conduct in failing to file the amended tax returns violated Mass. R. Prof. C. 1.3. The respondent's conduct in falsely representing to the clients that he had filed amended tax returns on their behalf violated Mass. R. Prof. C. 8.4(c). The respondent's failure to safeguard the clients' file, to deliver to the clients their file and to return the unearned portion of his fee violated Mass. R. Prof. C. 1.15(c) and Mass. R. Prof. C. 1.16(d).

The respondent failed to cooperate with Bar Counsel's investigation resulting in an administrative suspension from June 27, 2005, to August 4, 2006. The respondent's failure to reply to Bar Counsel's inquiries and to cooperate with Bar Counsel's investigations violated Mass. R. Prof. C. 8.4(d) (lawyer shall not engage in conduct that is prejudicial to the administration of justice), (g) (lawyer shall not fail without good cause to cooperate with the Bar Counsel) and Supreme Judicial Court Rule 4:01, § 3. The respondent was subsequently reinstated after appearing at the Office of Bar Counsel.

In aggravation, the respondent received a prior admonition in 2003, for failing to act diligently, failing to communicate adequately with a client, and for designating himself as an attorney on his business card without ensuring that the client understood that the services being provided were not legal services.

On March 12, 2007, the parties filed a stipulation and jointly recommended a six-month suspension from the practice of law. The respondent admitted in the stipulation that the material facts and disciplinary violations set forth in bar counsel's petition could be established by sufficient evidence. On April 9, 2007, the Board of Bar Overseers voted unanimously to recommend to recommend a six-month suspension from the practice of law. The Court so ordered on May 16, 2007.

¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

² Compiled by the Board of Bar Overseers based on the record before the Supreme Judicial Court.

Please direct all questions to webmaster@massbbo.org.

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