

IN RE: AMY MICHELLE DONOVAN

S.J.C. Order of Term Suspension entered by Justice Cordy on January 20, 2011.\*

SUMMARY<sup>1</sup>

The respondent was suspended for eighteen months on January 11, 2011. Her misconduct involved five separate matters. In addition, she failed to cooperate with bar counsel's investigation and was administratively suspended. She also failed to comply with the order of administrative suspension, and she did not participate in the bar discipline proceedings.

The first matter concerned the respondent's conduct in representing the husband in a divorce. In January 2009, the respondent asked the client to replenish his retainer by making a payment of \$1,500 prior to a hearing scheduled in February. The client promptly paid the respondent the requested funds, and the respondent deposited the funds into her IOLTA account.

In February, the parties appeared at court, where they entered into a separation agreement. The agreement provided that, within seven days, the wife would convey her interest in the marital home to her husband and receive from him a second mortgage securing a promise to pay her \$122,500. The respondent was to prepare the deed. The court entered the agreement as an order of the court.

The respondent never prepared the deed to convey the wife's interest. Between February and May 2009, the client attempted without success to contact the respondent. When he finally reached the respondent on her cell phone in the middle of May, she falsely informed him she had prepared the deed and sent it to him, and would send a second copy that day. The respondent did not prepare and send the deed to the client, and she failed to respond to his further attempts to contact her and obtain a refund of the unearned portion of the fee he had paid. The respondent's conduct in this matter violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3, 1.4(a) and (b), 1.5(a), 1.16(d), and 8.4(c).

The second matter also involved a divorce case. The respondent failed to advise her client of his obligation to attend a pre-trial hearing, and she failed to appear as well. The court ordered the respondent personally to pay a fine of \$1,000. The respondent failed to pay the fine. By failing to advise her client of the date for the pre-trial conference, abandoning the matter without notice to her client and failing to take steps to protect his interests, the respondent violated Mass. R. Prof. C. 1.1, 1.2, 1.3, 1.4(a) and (b) and 1.16(d). By failing to appear at the pre-trial conference and by failing to pay the attorney's fees as ordered by the court, the respondent violated Mass. R. Prof. C. 3.4(c) and 8.4(d).

The third matter concerned the respondent's representation of a client in a personal injury case. The respondent's client received correspondence from the defendant's insurer directing her to appear for an independent medical examination. The client attended the examination after numerous unsuccessful attempts to discuss the examination with the respondent. The respondent had not informed the client that her telephone service had been disconnected and that she was no longer working on the case. The respondent's conduct violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b) and 1.16(d).

In the fourth matter, the respondent represented a juvenile in a personal injury matter. The

insurer had demanded that a guardian ad litem be appointed by the court to sign the release on behalf of the juvenile, but the respondent failed to advise the child's mother of the demand, and she took no steps to have a guardian appointed. The respondent forwarded a release to the mother with instructions to have a responsible adult, preferably a relative, execute the release on behalf of the juvenile. The mother returned the release to the respondent with the signature of a family friend. The respondent never took action to have a guardian ad litem appointed.

By failing to competently represent her client and seek the client's lawful objectives with diligence, the respondent violated Mass. R. Prof. C. 1.1, 1.2(a) and 1.3. By failing to respond to her client's requests for information, the respondent violated Mass. R. Prof. C. 1.4(a). By abandoning her client's case without notice to the client or taking steps to protect her client's interests, the respondent violated Mass. R. Prof. C. 1.4(b) and 1.16(d).

In the fifth matter, the respondent had been paid a retainer of \$3,000 by the client who was seeking a divorce from his wife. As of the date of her administrative suspension, the respondent had an appearance on file in Middlesex Probate Court on behalf the client. In violation of the order, the respondent did not notify the client of her administrative suspension or withdraw from the case. She also did not respond to the client's inquiries about the status of his matter. The client terminated the respondent's services, demanded an accounting of his retainer and a refund of the unearned portion. The respondent refunded \$2,120 of the retainer, but failed to account for her fee. The respondent's conduct violated Mass. R. Prof. C. 1.15(d), 3.4(c) and 8.4(d) and (h).

The respondent failed to reply to bar counsel's letters requesting information on these matters. She also moved from her office without notifying the registration division of the Board of Bar Overseers of her address. Her failure to respond to bar counsel's requests for information violated Mass. R. Prof. C. 3.4(c), 8.1(b), 8.4(g) and S.J.C. Rule 4:01, §3(1). Her failure to notify the Board of Bar Overseers of her address within thirty days of her change of address violated S.J.C. Rule 4:02, §1 and Mass. R. Prof. C. 3.4(c).

On August 24, 2010, bar counsel filed a petition for discipline, which was served on the respondent. The respondent failed to file an answer to the petition for discipline or otherwise participate in the disciplinary process.

On November 15, 2010, the Board of Bar Overseers voted to recommend that the respondent be suspended for eighteen months. On November 23, 2010, an Information was filed in the county court. The court set a hearing date for January 11, 2011, with notice to the parties. On January 11, 2011, the respondent failed to appear at the hearing. On that day, the court entered an order of suspension for a term of eighteen months effective on the date of entry.

#### FOOTNOTES:

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

<sup>1</sup> Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

Please direct all questions to [webmaster@massbbo.org](mailto:webmaster@massbbo.org).