

**IN RE: ANTHONY V. ZEOLLA**

**NO. BD-2017-029**

**S.J.C. Order of Term Suspension entered by Justice Lenk on August 7, 2017.<sup>1</sup>**

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<sup>1</sup> The complete order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
NO: BD-2017-029

IN RE: ANTHONY V. ZEOLLA

MEMORANDUM OF DECISION

This matter came before me on bar counsel's petition for reciprocal discipline pursuant to S.J.C. Rule 4:01, § 16, recommending that the respondent be reciprocally suspended from the practice of law in the Commonwealth for a period of five years; on December 28, 2016, the respondent was suspended from the practice of law in Connecticut for five years for neglect of two client matters, failing to take action on behalf of the clients, failing to communicate with the clients, failing to provide competent and diligent service to the clients, failing to provide the clients with a written fee agreement, and charging an excessive fee. The respondent filed an appearance in the Connecticut action, but did not file an answer or appear at the grievance hearing before the Connecticut Superior Court in Hartford, and thus was defaulted. In violation of S.J.C. Rule

4:01, §§ 12(8) and 16(6), the respondent did not notify bar counsel or the Board of Bar Overseers (board) that his right to practice law in another jurisdiction had been "curtailed or limited."<sup>1</sup> In addition, at the time of the proceedings in Connecticut, the respondent was administratively suspended from the practice of law in the Commonwealth as a result of his failure to pay dues, as he has been since April, 2011.

The respondent also did not file an answer in response to this court's order of notice, and did not appear at the hearing before me on June 1, 2017. Thus, the sole question before me is the appropriate sanction to be imposed.

2. Appropriate sanction. In determining the appropriate sanction to be imposed in a petition for reciprocal discipline, the question involves more than a mere replication of the sanction imposed in the foreign jurisdiction. I "may impose the identical discipline unless (a) imposition of the same discipline would result in grave injustice; (b) the misconduct established does not justify the same discipline in this Commonwealth; or (c) the misconduct established is not adequately sanctioned by the same discipline in this Commonwealth." S.J.C. Rule 4:01,

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<sup>1</sup> See S.J.C. Rule 4:01, § 12(8) (requiring attorneys to notify bar counsel within ten days if convicted of crime); S.J.C. Rule 4:01, § 16(6) (requiring attorneys to notify bar counsel and board within ten days if disciplined in another jurisdiction).

§ 16(3). Thus, the determination required is how best "to mete out the sanction appropriate for this jurisdiction," In re Steinberg, 448 Mass. 1024, 1025 (2007), such that the sanction "is not markedly disparate from that ordered in comparable cases" in the Commonwealth. In re Kersey, 444 Mass. 65, 70 (2005), even where the most commonly imposed and appropriate sanction in the Commonwealth "exceeds, equals, or falls short of the discipline imposed in [the other] jurisdiction." In re Watt, 430 Mass. 232, 234 (1999) ("In reciprocal discipline cases . . . , we accord deference to the judgment of a sister State, but we look to Massachusetts law in determining the appropriate sanction, if any, to be imposed"). See In re Basbanes, 12 Mass Att'y Disc. R. 9, 10 (1996) (suspending attorney for one year, rather than disbarring attorney as requested by bar counsel, because that length of suspension was consistent with sanction typically imposed in Commonwealth for similar conduct); In re Choroszej, 9 Mass. Att'y Disc. R. 64, 64 (1993) (declining to impose reciprocal suspension requested by bar counsel and instead imposing public censure).

Sanctions that have been imposed in Massachusetts for neglecting client matters, failures of competence and diligence, not undertaking action on behalf of a client, failing to communicate with a client, and charging an excessive fee are

quite varied, and often are difficult to compare due to the combination of violations in each specific case. Nonetheless, no case I have found seems to impose a sanction nearly as long as five years for this type of misconduct, unless there also is an intentional misuse of the client's funds, with deprivation, see, e.g., In re LiBassi, 449 Mass. 1014, 1016 (2004) (presumptive sanction for intentional misuse of client funds is indefinite suspension or disbarment), and many impose sanctions of less than six months. See, e.g., In re Shaughnessy, 442 Mass. 1012 (2004) (six-month suspension for neglect of client case and repeated misrepresentations to client and opposing counsel that case had not been dismissed); Matter of Chambers, 421 Mass. 256 (1995) (six-month suspension for neglect of criminal matter, failure to pursue diligently client's appeal, so that appeal was not docketed until after client had served his sentence, failure to cooperate with bar counsel, and prior history of discipline); In re Anderson, 416 Mass. Att'y Disc. R. 521 (1993) (public censure for ignoring client's letters and calls, failure to inform client of relevant law, filing deficient pleadings, failing to serve complaint, withdrawing representation without notice, and failing to take steps to protect client interests).

See In re Basbanes, 12 Mass Att'y Disc. R. 9, 10 (1996) (declining to disbar attorney reciprocally as requested by bar counsel and, instead, suspending attorney for one year because such suspension was consistent with sanction typically imposed in Commonwealth for such conduct); In re Choroszej, 9 Mass. Att'y Disc. R. 64, 64 (1993) (declining to impose reciprocal suspension requested by bar counsel and, instead, imposing public censure).

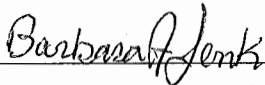
Having considered a range of sanctions for similar misconduct in Massachusetts, I am persuaded that a suspension of one year and one day is most consistent with the nature of the respondent's misconduct, the need to protect the public, and the court's disciplinary precedent. See In re Jean, supra at 341; In re Siniscalchi, supra at 305; In re Crowley, supra at 76. While the reasons for the respondent's neglect of his clients are unclear, he has not contacted bar counsel to inform her, for example, if he is suffering from illness or injury. On the other hand, his apparent abandonment of his practice could give rise to serious concerns that he undertake another inadequate representation and undermine public confidence in the legal profession.

At the June 1, 2017, hearing before me, bar counsel represented that a sanction of one year and one day, nunc pro tunc, would ensure that the respondent is not re-admitted to the

practice of law in the Commonwealth until he has demonstrated, to bar counsel's satisfaction, that he is fit to resume the practice, and she does not oppose such a sanction. I do not impose a requirement that the respondent be readmitted to practice in Connecticut before he is readmitted to the practice of law in Massachusetts; such a requirement de facto would impose a suspension of at least five years.

3. Disposition. An order shall enter suspending the respondent from the practice of law in the Commonwealth for one year and one day, effective nunc pro tunc to December 28, 2016, the date of his suspension in Connecticut.

By the Court

  
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Barbara A. Lenk  
Associate Justice

Entered: August 7, 2017