

IN RE: ADAM M. McNAMARA

NO. BD-2018-093

S.J.C. Order of Term Suspension entered by Justice Gaziano on February 21, 2019.¹

Upon his default, the respondent was suspended for eighteen months based on misconduct in three separate matters. In the first matter, the respondent delayed in remitting payments he had collected from debtors on behalf of a creditor client and failed to communicate with his client concerning the status of such payments. In the second and third matters, the respondent failed to promptly effectuate the terms of a settlement. In addition to the specific misconduct, the respondent failed to cooperate with bar counsel's investigation.

SUMMARY²

The respondent was admitted to the bar of the Commonwealth of Massachusetts on June 18, 2002. On February 21, 2019, the Supreme Judicial Court for Suffolk County entered an order suspending the respondent for a term of eighteen months. The order of suspension arose from the respondent's failure to deliver client funds, lack of diligence, failures to communicate, and other misconduct in regard to various collection matters he handled on behalf of creditors.

In regard to three collection matters assigned to him, the respondent delayed in remitting payments he had collected from debtors and failed to communicate with his client concerning the status of such payments. In one such instance, the respondent advised his client that he would "shortly remit" certain payments to the creditor but thereafter failed to remit the funds for over a year. In another instance, the respondent reported in September 2015 that the debtor had agreed to remit payments of \$500 per month. During the ensuing six months, the respondent forwarded to the creditor only a single remittance of \$500 while failing to report on the status of the other payments. In a third instance, the respondent reported in April 2015 that the debtor would be remitting payments of \$500 per month. The respondent subsequently failed to forward any funds to the client until May 2016, when he transmitted \$3,000 but failed to explain why no payments had been sent for thirteen months or why only \$3,000 in remittances had accrued over that time.

In response to bar counsel's investigation, the respondent accounted to the client for all funds he had collected from the debtors.

By failing to communicate with his client concerning the status of the various matters and by failing to respond to the client's reasonable requests for information, the respondent violated Mass. R. Prof. C. 1.4(a) for conduct prior to July 1, 2015 and Mass. R. Prof. C. 1.4(a)(3) and (4) for conduct on or after July 1, 2015. By failing to provide prompt notice of his receipt of client trust funds and by failing to deliver such funds to his client in a prompt fashion, the respondent violated Mass. R. Prof. C. 1.15(c), 1.2, and 1.3.

In a second matter, the respondent represented a creditor in a District Court collection action beginning in 2011. In May 2013, the respondent obtained a default judgment against the debtor in the amount of \$32,471.68. The respondent obtained an execution on the judgment and recorded it at the registry of deeds in April 2015. Pursuant to G.L. c. 236, § 24, the recorded execution constituted a lien against the debtor's real estate.

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 filed with the Supreme Judicial Court.

In September 2016, an attorney representing the debtor filed a motion to vacate the judgment and dissolve the lien on his client's property. In response, the respondent agreed to settle the case for \$12,500 and, as part of the settlement, furnish an instrument to effectuate the release of the lien. Accordingly, the debtor provided the respondent with a bank check in the amount of \$12,500 on or about March 26, 2017. However, despite numerous subsequent requests and demands, the respondent failed to provide the debtor's attorney with the promised release documentation. Therefore, the debtor's attorney had to file a motion with the court in order to dissolve the lien. As a result, the property remained encumbered by the lien until June 2018.

By failing to deliver the documentation needed to fulfill the terms of the settlement, the respondent violated Mass. R. Prof. C. 1.3, 8.4(d), and 8.4(h).

In a third matter, the respondent represented the same creditor in a collection action against a different debtor. In December 2011, the respondent obtained a default judgment against the debtor in the amount of \$10,513.80. The respondent obtained an execution on the judgment and recorded it at the registry of deeds in March 2012.

In February 2017, the respondent and the debtor agreed to settle the matter for \$6,500. The debtor promptly furnished the settlement payment to the respondent. However, as in the previous matter, the respondent thereafter failed to provide the documentation needed to effectuate the release of the lien on the real estate.

By failing to deliver the instruments needed to conclude the terms of the settlement, the respondent violated Mass. R. Prof. C. 1.3, 8.4(d), and 8.4(h).

Bar counsel opened an investigation concerning the respondent's conduct on September 12, 2016. At various times during the investigation of the foregoing matters, the respondent failed to respond to requests for information from bar counsel and failed to comply with subpoenas issued by the Board of Bar Overseers in furtherance of bar counsel's investigation.

By failing to cooperate with bar counsel's efforts to investigate his conduct, the respondent violated Mass. R. Prof. C. 8.1(b), Mass. R. Prof. C. 8.4(g), and SJC Rule 4:01, § 3.

On July 10, 2018, bar counsel filed a petition for discipline against the respondent. The respondent failed to file an answer to the petition within twenty days of the date of service and was defaulted.

On October 15, 2018, the Board of Bar Overseers voted to recommend that the respondent be suspended for a term of eighteen months. On February 21, 2018, the Supreme Judicial Court for Suffolk County (Gaziano, J.) entered a judgment of term suspension for a period of eighteen months, effective immediately.