

STEPHEN P. COLELLA

Order (public reprimand) entered by the Board January 5, 2006.

SUMMARY¹

In July 2004, the respondent took over a case from an attorney who was retiring from the practice of law. The previous attorney had filed suit against the client's landlord in district court to recover losses sustained when the building in which the client operated a business had a fire in May of 2001. At the time of the fire, the client was uninsured. The complaint against the landlord sought to recover pre-paid rent under a contract theory and to recover the loss of the client's business inventory under a negligence theory.

When the respondent took over as counsel, discovery had concluded and the client had rejected all settlement offers. The previous attorney had informed the client that there was no evidence to support the negligence count, but the client continued to believe that there had been negligence.

In late September 2004, the landlord served the respondent with a motion for summary judgment, which the respondent forwarded to the client on October 9, 2004. The respondent notified the client by letter of that date that the hearing was scheduled for November 12, 2004, and that the client was not required to appear.

On November 11, 2004, the respondent, with the client's authorization, signed the client's name to an affidavit in opposition to the motion for summary judgment. The affidavit related only to the count to recover rent, not the negligence count. The respondent filed the affidavit with the court at the hearing on November 12, 2004. After hearing, judgment entered in favor of the client for \$1000 on his claim to recover pre-paid rent from the landlord, but judgment entered in favor of the landlord on the negligence claim.

By signing the client's name on the affidavit under the penalties of perjury, the respondent made a misrepresentation to the court in violation of Mass. R. Prof. C. 3.3(a)(1) and 8.4(c) that the signature was that of the client; engaged in conduct prejudicial to the administration of justice, in violation of Mass. R. Prof. C. 8.4(d); and engaged in conduct that adversely reflects upon his fitness to practice law, in violation of Mass. R. Prof. C. 8.4(h).

The matter came before the board on a stipulation of facts and disciplinary violations and a joint recommendation for a public reprimand. On December 12, 2005, the Board accepted the parties' recommendation and imposed a public reprimand.

¹ Compiled by the Board of Bar Overseers based on the record of proceedings before the Board.

