

MICHAEL AHN

Order (public reprimand) entered by the Board June 12, 2008.

SUMMARY¹

The client hired the respondent to represent her in her divorce. Initially, the divorce was uncontested. The couple's primary asset was their home. The client informed the respondent that they had reached a number of agreements including an agreement to continue living in the marital home, but with separate bedrooms, pending the divorce. The respondent advised the client that he would charge her a flat fee of \$2,500 to represent her to the conclusion of the divorce. The client paid the respondent \$2,500, and the respondent entered his appearance on behalf of the client.

During the next two months, the living arrangements between the client and her husband became unacceptable. The client advised the respondent of the difficulties with her living arrangements. The respondent advised the client that he would charge her \$12,500 as a flat "non-refundable" fee to represent her to the conclusion of her divorce. The client paid the respondent the additional \$10,000.

The respondent represented the client for the next six weeks. During that time, the respondent corresponded with opposing counsel, negotiated an uncomplicated stipulation, and appeared at an uncontested pre-hearing conference.

At the end of the six weeks, the client discharged the respondent and retained another lawyer to represent her. Successor counsel contacted the respondent by letter and requested that the respondent file a notice of withdrawal, produce an itemized bill, return the unearned portion of his fee to the client, and deliver the client's file to successor counsel. The respondent failed to return the client's file to the client or successor counsel.

Two weeks after receiving successor counsel's letter, the respondent faxed an itemized bill to successor counsel. In addition to fees for legal services, the respondent charged the client an additional \$4,895, calculated in part by charging \$300 per hour for administrative tasks such as sending facsimiles and mailing documents. The respondent's claimed fee was clearly excessive.

The client filed a request for investigation with the Office of the Bar Counsel. After receiving bar counsel's request for information, the respondent refunded a substantial portion of the \$12,500 he had collected.

By collecting \$12,500, and by failing to return the unearned portion of the fee, the respondent collected a clearly excessive fee in violation of Mass. R. Prof. C. 1.5(a) and 1.16(d).

By attempting to collect \$17,395, the respondent charged a clearly excessive fee in violation of Mass. R. Prof. C. 1.5(a).

By failing to provide an accounting for the fee, the respondent violated Mass. R. Prof. C. 1.15(d)(1).

By failing within a reasonable time after his client's request to return his client's file, the respondent violated Mass. R. Prof. C. 1.16(d) and (e).

This matter came before the Board on a stipulation of facts and disciplinary violations and a joint recommendation for discipline by public reprimand. 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.

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