

J. EDWARD SURETTE, III

Order (public reprimand) entered by the Board April 28, 2009.

SUMMARY¹

On May 11, 2005, the respondent commenced to represent a client in connection with the purchase of real estate in Waltham by a realty trust in which the client had a beneficial interest. A short time after the May 11, 2005 purchase, the client caused the property to be professionally surveyed. The survey disclosed that a neighbor's shed encroached on the property.

Prior to June 2006, the client then retained the respondent to take action to have the shed removed. On June 20, 2006, the respondent sent to his client a draft civil complaint. Thereafter, the respondent did not file a complaint and took no further action of substance to prosecute the claim.

Between June 20, 2006 and May 10, 2007, the respondent falsely represented to his client that he had in fact filed a complaint in the Waltham District Court, that the defendant had been served and had defaulted and that he had filed a motion for an injunction and was waiting for a decision. On June 18, 2007, the client contacted the Waltham District Court and learned that nothing had been filed. On July 11, 2007, the client discharged the respondent and retained successor counsel. The client did not lose any substantive rights.

The respondent's failure to represent his client diligently and timely seek the objective of his client was in violation of Mass. R. Prof. C. 1.1, 1.2(a) and 1.3. The respondent's intentional misrepresentations and deceptive statements made to his client was in violation of Mass. R. Prof. 8.4(c).

In his role of settlement agent in two real estate closing transactions, the respondent collected title insurance premiums but did not promptly remit to the title insurers the premiums due. At all times, the funds remained intact in the respondent's IOLTA account.

The respondent's failure to promptly deliver trust funds to a third person entitled to receive the funds, was in violation of Mass. R. Prof. C. 1.15(c).

In addition, from July 31, 2007, to September 11, 2007, the respondent knowingly failed to cooperate in bar counsel's investigation of two files. Specifically, the respondent failed to respond to six letters from bar counsel that he had received asking him to answer the allegations against him. As a result of the respondent's failure to respond to bar counsel's requests for information, bar counsel subpoenaed the respondent to appear at the office of bar counsel on November 1, 2007. The respondent appeared as directed and thereafter cooperated with bar counsel.

The respondent's knowing failure to cooperate with an investigation of bar counsel was in violation of Mass. R. Prof. C. 8.4(d) and (g) and S.J.C. Rule 4:01, § 3.

There were no factors in aggravation or mitigation of discipline. The respondent attended CLE programs recommended by bar counsel and obtained assistance in his practice.

This matter came before the Board on a stipulation of facts and disciplinary violations and a joint recommendation for discipline. The parties stipulated that the appropriate sanction was a public reprimand. On April 13, 2009, the Board of Bar Overseers voted to adopt the parties' stipulation and proposed sanction and the respondent received a public reprimand.

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

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