

ROBERT J. DOYLE

Order (public reprimand) entered by the Board July 26, 2010.

SUMMARY¹

In July 2007, the respondent agreed to act as co-counsel with a Pennsylvania lawyer on a pending civil claim in Pennsylvania in which the client alleged harm resulting from toxic mold infestation of her home. The Pennsylvania lawyer sent the respondent a voluminous file to review.

The respondent did not explain to the client that he would charge for a review of the file to determine whether to take the case. He completed a preliminary review of the file by September 2007. At that time, he asked the client for a retainer of \$4,000 and explained that he would bill at the rate of \$200 per hour plus expenses. His failure to explain fully the basis of his fee violated Mass. R. Prof. C. 1.5(b).

The respondent deposited the check for the full retainer to his business account under the mistaken belief that he had earned the entire amount. His failure to deposit the retainer to the IOLTA account and withdraw the amount of his earned fee violated Mass. R. Prof. C. 1.15(b)(1) and 1.15(b)(2)(ii). Within a short time after receiving the retainer, however, the respondent earned it in full.

Before or at the time he deposited the check, the respondent did not send the client in writing an itemized bill or other accounting showing the services rendered, written notice of the amount and date of the deposit, and a statement of the balance of the client's funds after the deposit. The respondent's failure to do so violated Mass. R. Prof. C. 1.15(d)(2).

Between September and December 2007, the respondent reviewed and indexed over 400 pages of the client's file, researched the pertinent law in Pennsylvania, exchanged letters with the other lawyer about the case, and abstracted documents from the file into a database that he maintained on his laptop computer. The respondent lacked diligence in preserving this work by failing to maintain a backup copy, and, in late 2007, he lost all the data when his computer crashed. This conduct violated Mass. R. Prof. C. 1.3.

After losing the data, the respondent stopped working on the case, but he did not disclose to the client the loss of information, nor did he inform her that he was not taking further action on the case. This conduct violated Mass. R. Prof. C. 1.4 and 1.16(d).

By a letter dated February 5, 2008, the Pennsylvania lawyer requested that the respondent send his review of the file. The respondent did not reply to this request, in violation of Mass. R. Prof. C. 1.4(a). The respondent was discharged in April 2008 and asked to refund the full retainer. The respondent did not reply to the letter of discharge, and he did not deposit the disputed fee to a trust account until the dispute could be resolved, in violation of Mass. R. Prof. C. 1.15(b)(2)(ii).

On April 30, 2009, the Pennsylvania lawyer filed a request for investigation with bar counsel.

The respondent acknowledged to bar counsel that he had not responded to the lawyer's letters and had not produced the report he had agreed to prepare. The respondent refunded the entire fee. The client suffered no ultimate harm from the respondent's conduct.

The respondent was admitted to practice in Massachusetts on November 28, 1969. In aggravation, the respondent received an admonition in 2007 for similar misconduct. Admonition No. 07-09, 23 Mass. Att'y Disc. R. 946 (2007).

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint recommendation for a public reprimand. On July 12, 2010, the board ordered a public reprimand.

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

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