

Supreme Court

In the Matter of Edward G. Lawson, Jr.
(Bernal)(Boucher)(Curtin)

No. 2008-107 M.P.

O R D E R

This attorney disciplinary case came before the Court at its conference on June 19, 2008. The Supreme Court Disciplinary Board ("board") has filed its recommendation that the Respondent, Edward G. Lawson, Jr., be publicly censured. Article III, Rule 6(d) of the Supreme Court Rules of Disciplinary Procedure provides in pertinent part:

"If the board determines that a proceeding * * * should be concluded by public censure, suspension or disbarment, it shall submit its findings and recommendations, together with the entire record, to this Court. This Court shall review the record and enter an appropriate order."

The board forwarded its recommendation after conducting a consolidated hearing on three separate disciplinary complaints. The respondent did not contest the factual allegations contained in those complaints, and the matter was presented to the board on an agreed statement of facts. The relevant facts of each complaint, and the conclusions of the board relating to the disciplinary rules violated by the respondent, are set forth below.

In the first complaint, the respondent represented a client, Mrs. Bernal, in a personal injury claim arising out of a motor vehicle accident. In June of 2004 he

received a check in the amount of \$2,764.00 from his client's own insurer pursuant to the medical payments provision of her insurance policy. That payment was conditioned upon the insurance company's right of subrogation should Mrs. Bernal recover any funds from the tortfeasor. Respondent deposited those funds into his client account, but made no distribution to his client, her treating physicians, or himself.

In September of 2004 respondent settled the claim against the tortfeasor for \$14,800. From those funds he paid the subrogation claim, other medical bills on behalf of Mrs. Bernal, his fee, and paid Mrs. Bernal her portion of the settlement. However, he failed to make distribution of the previously received medical payment funds, and that money remained in his account. It should also be noted that some of the medical payments distributed by the respondent were in the wrong amounts or forwarded to incorrect parties.

Mrs. Bernal believed that all of the bills had been paid and all of the funds were properly distributed. However, in February of 2007, she was notified that her own health insurance provider was seeking reimbursement for some of the medical bills paid on her behalf. She forwarded that notice to respondent, along with a request that he provide a detailed accounting of her settlement. The respondent did not reply to her request, and she filed a complaint with the board in April of 2007. In preparing his response to that complaint the respondent discovered that the \$2,764.00 medical coverage payment remained in his client account. He then forwarded those funds to Mrs. Bernal. There was no conversion of those funds at any time, and they always remained on deposit in the client account.

The board concluded that the respondent's actions, as described above, violated Rules 1.3 (diligence)¹, 1.4(b) (communication)², and 1.15(b) (safekeeping property)³, of the Rules of Professional Conduct. We concur with the board's findings. The respondent was dilatory in his representation of Mrs. Bernal, failed to communicate with her as to the true status of her settlement funds, and clearly failed to properly distribute her funds or provide an accounting to her upon request.

In the second matter considered by the board the respondent represented Ms. Boucher in bankruptcy proceedings. Ms. Boucher originally filed what is commonly known as a Chapter 13 bankruptcy. As part of her plan Ms. Boucher agreed to keep the mortgage payments on her residence current. When she was unable to make those payments, she requested that the respondent convert her proceedings to a Chapter 7 bankruptcy, and that he obtain permission from the Bankruptcy Court to sell the property. He was paid an additional fee for this task.

However, the respondent failed to file to convert her Chapter 13 bankruptcy to a Chapter 7 proceeding, and her Chapter 13 petition was dismissed by the court. The respondent's inaction on behalf of Ms. Boucher resulted in the sale of her residence being delayed. By failing to take proper action on behalf of Ms. Boucher, the

¹ Rule 1.3 provides, "A lawyer shall act with reasonable diligence and promptness in representing a client."

² Rule 1.4(b) provides, "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

³ "Rule 1.15(b), as in effect at the times relevant to this proceeding, provided, in pertinent part, that, ". . . a lawyer shall promptly deliver to the client or third person any funds or other property that the client is entitled to receive and, upon request by the client or third persons, shall promptly render a full accounting regarding such property." Effective April 15, 2007, due to amendments this Court made to the Rules of Professional Conduct, this rule is now Rule 1.15(d).

respondent violated Rules 1.1 (competence)⁴, and 1.3 (diligence) of the Rules of Professional Conduct.

The final matter reviewed by the board was a complaint filed by the Disciplinary Counsel. On July 10, 2007, the respondent entered into a Consent Order with the United States Trustee to resolve issues raised by the Trustee relating to the respondent's practice of law before the United States Bankruptcy Court for the District of Rhode Island. Pursuant to that Consent Order, the respondent voluntarily agreed to cease practicing before the Bankruptcy Court for a period of thirty-six (36) months, commencing August 15, 2007. The basis for the Consent Order relates to respondent's misconduct in representing Mrs. Cassani and Mr. Kaplan before that court.

In 2000, Mrs. Cassani consulted with the respondent regarding a potential bankruptcy filing. She provided her financial information to him, and he prepared the requisite financial schedules for filing the bankruptcy proceedings. However, she decided not to proceed with a filing at that time. Five years later, in October of 2005, she re-contacted the respondent and indicated she now wished to proceed with her bankruptcy petition. The respondent did not obtain any present financial information from his client and, using the information she provided five years earlier, he completed and submitted the required schedules to the court. He electronically affixed her sworn statement to the petition stating that she had read the financial schedules and that they were accurate. They were not accurate, and she had not read them.

⁴ Rule 1.1 provides, "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

Mr. Kaplan also sought the respondent's services in October of 2005 to file a Chapter 7 bankruptcy proceeding. At that time the respondent was also representing Mr. Kaplan in a pending personal injury claim. Upon filing the bankruptcy, that personal injury claim became part of the bankruptcy estate. However, the respondent failed to include that pending claim on the bankruptcy schedule, subjecting Mr. Kaplan to possible criminal liability, denial of a bankruptcy discharge, and possible loss of any exemption to any proceeds from the settlement of that claim. Fortunately, the schedules were corrected without any harm to Mr. Kaplan.

In his representation of both Cassani and Kaplan the respondent violated Rules 1.1 and 1.3 of the Rules of Professional Conduct.

In fashioning a recommended sanction, the board considered the following mitigating factors. The respondent has been admitted to the practice of law in this State since 1969. He has no prior discipline. He cooperated fully with the board's investigations into these complaints. His testimony before the board was forthright and candid, and he expressed sincere contrition for his conduct. He presented evidence before the board of a medical condition that helps to explain, but which does not excuse, his actions in these matters. The board has properly placed that medical information under seal, but we are satisfied that evidence establishes that the conduct at issue in these proceedings was an aberration, and is not representative of his lengthy practice in an otherwise unblemished legal career. The respondent has taken proper steps to address those medical issues. The board did not find, and we do not discern, any aggravating factors which would cause us to impose a more serious sanction than that recommended by the board.

The purpose of attorney disciplinary proceedings is not punishment of the attorney. Rather, it is to protect the public and maintain the integrity of the profession. Carter v. Cianci, 482 A.2d 1202 (R.I. 1984). We believe that purpose can best be served in this proceeding by accepting the board's recommendation. Accordingly, the Respondent, Edward G. Lawson, Jr., is hereby publicly censured.

Entered as an Order of this Court this 19th Day of June, 2008.

By Order,

/s/

Clerk