

Margaret M. Melican

Order (public reprimand) entered by the Board May 25, 2010.

SUMMARY¹

The respondent represented a contractor sued by the plaintiffs for poor construction on their home. On February 3, 2006, the district court found for the plaintiffs and entered judgment for \$81,240.53. The respondent filed post-trial motions, which were denied.

On September 5, 2007, execution for the plaintiffs issued in the amount of \$96,678.46. The plaintiffs levied on an investment property owned by the contractor, and a sheriff's sale was scheduled to satisfy the execution. At that point, the respondent and the plaintiffs' lawyer entered into settlement negotiations, and the sale was postponed.

By March 2008, settlement negotiations had broken down, and the plaintiffs were prepared to go forward with the sheriff's sale. In the interim, one of the plaintiffs brought suit against a former lover seeking to enjoin her from filing false reports with criminal authorities alleging that he had raped and sexually abused her. In defense of the lawsuit, the former lover filed an opposition to which she attached e-mails received from the plaintiff. The woman's allegations and the e-mails were scandalous and embarrassing. On August 31, 2006, the superior court issued a permanent injunction against the woman.

On March 7, 2008, the respondent wrote to plaintiffs' counsel that she had come across the other lawsuit involving one of the plaintiffs and that including the woman's allegations and other information in a motion for new trial in the case against the contractor could prove to be "embarrassing." On March 11, 2008, the respondent wrote to plaintiffs' counsel that she hoped the plaintiffs had taken the "time to consider the implications of my most recent correspondence" in deciding whether to resolve the matter with the respondent's client.

The respondent's conduct in using means that had no substantial purpose other than to embarrass one of the plaintiffs into agreeing to a settlement of the matter involving the respondent's client violated Mass. R. Prof. C. 4.4 (a lawyer shall not use means that have no substantial purpose other than to embarrass a third person) and 8.4(d) (conduct prejudicial to the administration of justice) and (h) (conduct that adversely reflects on a lawyer's fitness to practice law.)

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint recommendation that the respondent receive a public reprimand. The Board of Bar Overseers accepted the parties' recommendation and imposed a public reprimand on May 10, 2010.

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

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