

ANGELO P. CATANZARO

Public Reprimand No. 2014-8

Order (public reprimand) entered by the Board October 2, 2014.

SUMMARY¹

The respondent practiced in a small law firm where he focused his practice on litigation and real estate conveyancing and development.

Since about 2004, the respondent had a close friend and golf acquaintance with whom he traveled and socialized regularly. The friend told the respondent that he would like to invest in real estate and asked if the respondent knew of any investment opportunities for him. In about May 2007, the respondent introduced the friend to a developer who was looking for additional funds to complete construction of a small subdivision in Massachusetts. In June 2007, the friend agreed to loan the developer \$90,000 for a \$100,000 return and interest at the rate of 12%. The loan would come due in December 2007. As security for the loan, the developer would grant the friend a mortgage, third in line, on a residential property plus a mortgage, fourth in line, on the developer's own home. Both properties securing the loan were part of the subdivision and were being marketed at a price that would cover the friend's investment.

The respondent represented both the developer (borrower) and the friend (lender) in the loan transaction. Prior to the transaction, the respondent had the borrower sign an acknowledgement that the lender was a friend of the respondent, and that the borrower had an opportunity to seek independent legal counsel in connection with the loan. The respondent did not communicate to the lender information reasonably sufficient to permit the lender to appreciate the nature of his relationship to and representation of the borrower. The respondent did not fully disclose to the lender that he had represented the borrower in multiple other matters and that he would represent borrower's interests in connection with the loan. The respondent also did not fully disclose to the lender that his obligations to the borrower did or might materially affect the respondent's representation of the lender. The lender did not consent to the respondent's representation of the borrower after consultation.

The interests of the borrower and the lender in the transaction were directly adverse to each other and the respondent's representation of the lender and the borrower was or might have been materially limited by the respondent's responsibilities to the other client. Under the circumstances, this was not a waivable conflict because the respondent could not have reasonably believed that the representation of each client would not adversely affect his relationship with the other client. Even if the respondent could have reasonably believed that

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

the representation of each client would not adversely affect his relationship with the other, he was required to, but did not, obtain the consent of the lender to the representation after consultation.

The respondent prepared the loan statement, mortgage and promissory note for the transaction. The respondent charged a fee of \$350 for preparing these documents and recording the mortgage. With the lender's consent, the respondent's fee was paid by the borrower.

The loan came due in December 2007. In 2008, after the lender had granted the borrower several extensions of the term of the loan, the borrower defaulted on the note. The lender brought a civil action against the respondent seeking compensation for the financial losses he suffered in the failed business transaction. The parties settled the case to their mutual satisfaction.

The respondent's representation of both the borrower and the lender in a loan transaction when his representation of each client was directly adverse to his representation of the other client, and when his responsibilities to each client did or might materially limit his representation of the other client, when the respondent could not reasonably believe that the representation of each client would not be adversely affected by his representation of the other client, and without the lender's consent after consultation, violated Mass. R. Prof. C. 1.4(b) and 1.7(a) and (b).

The respondent was admitted to practice in 1975, and had received no prior discipline. In mitigation, the respondent did not have a direct financial interest in the transaction and he was not acting out of a selfish motive. The investment was risky for the lender, but he would have netted a high rate of return if the real estate market had not collapsed at or about the time he made the loan.

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint recommendation for discipline. The Board of Bar Overseers accepted the parties' recommendation and imposed a public reprimand on September 8, 2014.