

RICHARD P. MCCLURE
Public Reprimand No. 2018-12
Order (public reprimand) entered by the Board on October 11, 2018.
SUMMARY¹

The respondent was an elected official of a town planning board and therefore, subject to M.G.L. c. 268A §17(c), the state conflict of interest law. As a municipal employee the respondent was prohibited from acting as an attorney for anyone other than the town in a matter in which the town had a substantial interest.

The respondent acted as counsel in two unrelated matters in which the town was a defendant. In both matters, town counsel informed the respondent that his representation was in violation of the state conflict of interest law. In both matters, the respondent failed to withdraw, and the defendants filed motions to disqualify him as counsel. The respondent opposed the motions when there was no non-frivolous ground for doing so. In the second matter, the respondent attempted to resolve his conflict by advising the client to permit him to dismiss the complaint against the town, when arguably, it was not in the interest of the clients to do so.

A complaint against the respondent was filed with the State Ethics Commission for acting as counsel for plaintiffs in matters where the town had substantial interest. The State Ethics Commission found the respondent guilty of two violations of the M.G.L. c. 268A §17(c) and fined him \$5,000.

By undertaking to represent plaintiffs in matters in which the town had a substantial interest and failing to withdraw from his representation in the two matters in violation of M.G.L. c. 268A §17(c), the respondent violated Mass. R. Prof. C. 1.1, 1.16(a)(1) and 8.4(d).

By contesting the motions to disqualify him as counsel in the two matters when there was no non-frivolous basis for doing so, the respondent violated Mass. R. Prof. C. 1.1, 3.1 and 8.4(d).

By representing clients against the Town when his representation of the clients was materially limited by his fiduciary obligation to the Town and by statute, the respondent violated Mass. R. Prof. C. 1.7(b).

By advising his clients to dismiss their complaint against the town, so he could rectify his conflict of interest, the respondent violated Mass. R. Prof. C. 1.1, 1.2(a) and 1.4(b).

On August 6, 2018, the parties filed with the Board of Bar Overseers a stipulation of facts and rule violations together with an agreed recommendation for discipline by public reprimand. On September 17, 2018, the board voted to accept the parties' stipulation and imposed a public reprimand.

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