

**IN RE: DAVID S. CHEN**

**BBO # 690152**

**NO. BD-2023-096**

**Judgment (Accepting Affidavit of Resignation As A Disciplinary Sanction) entered by Justice Kafker on November 1, 2023, with an effective date of December 1, 2023.<sup>1</sup>**

*The respondent's Affidavit of Resignation was accepted as a disciplinary sanction for misconduct including making false and misleading communications, conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct that adversely reflects on fitness to practice, and failure to cooperate with bar counsel.*

**SUMMARY<sup>2</sup>**

The Petition for Discipline, the allegations of which were admitted for purposes of the Affidavit of Resignation, reflects that the respondent was charged with misrepresenting his professional background, experience, bar admissions and certifications to Sonesta International Hotels Corporation, a potential employer, in the hopes of securing employment there as an associate general counsel. He did this by appropriating the credentials of a better-qualified lawyer with a similar name. After Sonesta confronted the respondent, having checked his references and discovered irregularity, the respondent withdrew his application. Sonesta reported him to bar counsel, whereupon he knowingly and intentionally lied and provided false and misleading information.

The misconduct towards Sonesta violated Mass. R. Prof. C. 7.1 (lawyer may not make a false or misleading communication about lawyer), 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation) and 8.4(h) (any other conduct that adversely reflects on fitness to practice). The misconduct in connection with bar counsel's investigation violated Rule 8.1 (do not fail to disclose a fact necessary to correct a misapprehension, or knowingly fail to respond to a lawful demand for information), 8.4(g) (do not fail without good cause to cooperate with bar counsel); and 8.4(h).

As he was required to do under Board Policy No. 17, bar counsel submitted a letter to the Board addressing whether the conduct at issue would warrant disbarment. Bar counsel concluded that the misconduct would likely result in a term suspension, but not disbarment. Nonetheless, by vote dated October 10, 2023, the Board of Bar Overseers recommended to the S.J.C. that accept the respondent's Affidavit of Resignation as a disciplinary sanction.

On November 1, 2023, the Single Justice (Kafker, J.) accepted the respondent's Affidavit of Resignation as a disciplinary sanction.

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<sup>1</sup> The complete order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Massachusetts Board of Bar Overseers' Office of General Counsel based on the record filed with the Supreme Judicial Court.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
NO: BD-2023-096

IN RE: David S. Chen

JUDGMENT ACCEPTING AFFIDAVIT OF RESIGNATION  
AS A DISCIPLINARY SANCTION

This matter came before the Court, Kafker, J., on an Affidavit of Resignation submitted by David S. Chen pursuant to S.J.C. Rule 4:01, § 15; a letter from Assistant Bar Counsel to General Counsel dated September 22, 2023, recommending that the affidavit of resignation be accepted as a disciplinary sanction; and the Recommendation and Vote of the Board of Bar Overseers (Board) filed by the Board on November 1, 2023. Upon consideration thereof, it is ORDERED and ADJUDGED that:

1. The Affidavit of Resignation of David S. Chen be, and hereby is accepted as a disciplinary sanction and the lawyer's name is stricken from the Roll of Attorneys. In accordance with S.J.C. Rule 4:01, § 17(3), the resignation as a disciplinary sanction shall be effective thirty days after the date of the entry of this Judgment. The lawyer, after the entry of this

Judgment, shall not accept any new retainer or engage as a lawyer for another in any new case or legal matter of any nature. During the period between the entry date of this Judgment and its effective date, however, the lawyer may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

It is FURTHER ORDERED that:

2. Within fourteen (14) days of the date of entry of this Judgment, the lawyer shall:

a) file a notice of withdrawal as of the effective date of the resignation as a disciplinary sanction with every court, agency, or tribunal before which a matter is pending, together with a copy of the notices sent pursuant to paragraphs 2(c) and 2(d) of this Judgment, the client's or clients' place of residence, and the case caption and docket number of the client's or clients' proceedings;

b) resign as of the effective date of the resignation as a disciplinary sanction all appointments as guardian, executor, administrator, trustee, attorney-in-fact, or other fiduciary, attaching to the resignation a copy of the notices sent to the wards, heirs, or beneficiaries pursuant to paragraphs 2(c) and 2(d) of this Judgment, the place of residence of the wards, heirs, or beneficiaries, and the case caption and docket number of the proceedings, if any;

c) provide notice to all clients and to all wards, heirs, and beneficiaries that the lawyer has resigned; that he is disqualified from acting as a lawyer after the effective date of the resignation as a disciplinary sanction; and that, if not represented by co-counsel, the client, ward, heir, or beneficiary should act promptly to substitute another lawyer or fiduciary or to seek legal advice elsewhere, calling attention to any urgency arising from the circumstances of the case;

d) provide notice to counsel for all parties (or, in the absence of counsel, the parties) in pending matters that the lawyer has resigned and, as a consequence, is disqualified from acting as a lawyer after the effective date of the resignation as a disciplinary sanction;

e) make available to all clients being represented in pending matters any papers or other property to which they are entitled, calling attention to any urgency for obtaining the papers or other property;

f) refund any part of any fees paid in advance that have not been earned; and

g) close every IOLTA, client, trust or other fiduciary account and properly disburse or otherwise transfer all client and fiduciary funds in his possession, custody or control.

All notices required by this paragraph shall be served by certified mail, return receipt requested, in a form approved by the Board.

3. Within twenty-one (21) days after the date of entry of this Judgment, the lawyer shall file with the Office of the Bar Counsel an affidavit certifying that the lawyer has fully complied with the provisions of this Judgment and with bar disciplinary rules. Appended to the affidavit of compliance shall be:

a) a copy of each form of notice, the names and addresses of the clients, wards, heirs, beneficiaries, attorneys, courts and agencies to which notices were sent, and all return receipts or returned mail received up to the date of the affidavit. Supplemental affidavits shall be filed covering subsequent return receipts and returned mail. Such names and addresses of clients shall remain confidential unless otherwise requested in writing by the lawyer or ordered by the court;

b) a schedule showing the location, title and account number of every bank account designated as an IOLTA, client, trust or other fiduciary account and of every account in which the lawyer holds or held as of the entry date of this Judgment any client, trust or fiduciary funds;

c) a schedule describing the lawyer's disposition of

all client and fiduciary funds in the lawyer's possession, custody or control as of the entry date of this Judgment or thereafter;

d) such proof of the proper distribution of such funds and the closing of such accounts as has been requested by the bar counsel, including copies of checks and other instruments;

e) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice;

f) the residence or other street address where communications to the lawyer may thereafter be directed; and

g) any and all bar registration cards issued to the lawyer by the Board of Bar Overseers.

The lawyer shall retain copies of all notices sent and shall maintain complete records of the steps taken to comply with the notice requirements of S.J.C. Rule 4:01, § 17.

4. Within twenty-one (21) days after the entry date of this Judgment, the lawyer shall file with the Clerk of the Supreme Judicial Court for Suffolk County:

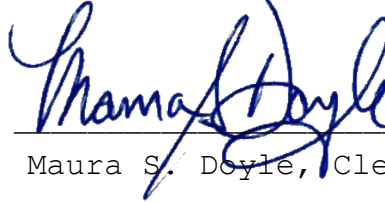
a) a copy of the affidavit of compliance required by paragraph 3 of this Judgment;

b) a list of all other state, federal and

administrative jurisdictions to which the lawyer is admitted to practice; and

c) the residence or other street address where communications to the lawyer may thereafter be directed.

By the Court, (Kafker, J.)

A handwritten signature in blue ink that reads "Maura S. Doyle". The signature is written in a cursive style with a large, stylized initial "M".

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Maura S. Doyle, Clerk

Entered: November 1, 2023