

**IN RE: ROBERT A. COSTANTINO**

**BBO # 101040**

**NO. BD-2023-117**

**Amended Order (Term Suspension) entered by Justice Gaziano on March 21, 2024.<sup>1</sup>**

*For varied misconduct, the respondent was suspended for three months, effective ninety days after entry of the Order.*

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

The Second Amended Petition for Discipline, the allegations of which were admitted for purposes of the Stipulation of the Parties, reflects the following. Beginning in 2002, the respondent provided legal services to a son and his elderly mother in an attempt to help the mother avoid foreclosure on her East Boston home. The respondent never met the mother, yet loaned her \$30,000 to assist with her financial problems. In Count 1, the petition describes a series of transactions whereby the respondent acquired an ownership interest in the mother's home without ever fully disclosing to her a description of the transaction and terms, did not advise her to seek independent counsel, and did not ever make sure she understood the import of the documents. This conduct violated Mass. R. Prof. C. 1.7(b), 1.8(a), 1.1, 1.2(1), 1.3, 1.4(a) and (b), 8.4(c) and 8.4(h).

Count 2 concerned the respondent's attempts to defeat a MassHealth lien. The mother had received \$43,673.80 in medical assistance benefits. After her death in 2008, the respondent received a notice from the Social Security Administration asking about the ownership of the property. He wrote, falsely, that the property was jointly owned by himself and the mother when, in fact, he knew that he and the mother were tenants in common. His intent was to get the SSA to believe that as a result of the mother's death, he was the only owner of the property. This intentional conduct violated Mass. R. Prof. C. 4.1(a), 8.4(c) and 8.4(h).

The parties have stipulated to additional facts that ameliorate the respondent's conduct, among them that the goal of the representation was to resolve the mother's mortgage problems, allow her to keep her house, and transfer it back to her once the arrears were satisfied; the respondent paid the mortgage and other expenses while he held an ownership interest; the respondent satisfied the MassHealth lien from his personal funds; and after the mother's death and upon payment of agreed-upon consideration, the son (heir) transferred his interest in the home to the respondent. The parties represent that the respondent did not ultimately receive any financial benefit.

The matter was assigned to a Hearing Committee and was due to be heard beginning October 24, 2023. In September 2023, the parties filed a Stipulation for Discipline and a Motion to Revoke Reference to the Hearing Committee. On October 10, 2023, the Board voted

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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.

to revoke reference to the Hearing Committee, and to accept the stipulation of the parties and their joint recommendation to file an Information with the Supreme Judicial Court recommending that Mr. Costantino be suspended from the practice of law for three months. On March 14, 2024, the Single Justice (Gaziano, J.) ordered the respondent suspended from the practice of law for three months, effective ninety days after the entry of the Order.

On March 15, 2024, the respondent filed a motion to amend the order of term suspension. On March 21, 2024, the Single Justice (Gaziano, J.) amended the original Order, and ordered the respondent suspended from the practice of law for three months, effective ninety days after the entry of the Order.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
NO: BD-2023-117

IN RE: Robert A. Costantino

AMENDED ORDER OF TERM  
SUSPENSION

This matter came before the Court, Gaziano, J., on an Information and Record of Proceedings pursuant to S.J.C. Rule 4:01, § 8(6), with the Recommendation and Vote of the Board of Bar Overseers (Board) filed by the Board on December 28, 2023. Upon consideration thereof, it is ORDERED that:

1. Robert A. Costantino is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of three (3) months. In accordance with S.J.C. Rule 4:01, §17(3), the suspension shall be effective ninety (90) days after the date of the entry of this Order. The lawyer, after the entry of this Order, 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 Order 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 seventy-four (74) days of the date of entry of this Order, the lawyer shall:

a) file a notice of withdrawal as of the effective date of the suspension 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 Order, 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 suspension 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 Order, 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 been suspended; that he is disqualified from acting as a lawyer after the effective date of the suspension; 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 been suspended and, as a consequence, is disqualified from acting as a lawyer after the effective date of the suspension;

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 eighty-one (81) days after the date of entry of this Order, 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 Order 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 Order 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 Order 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.

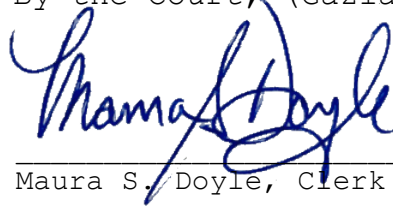
4. Within eighty-one (81) days after the entry date of this Order, the lawyer shall file with the Clerk of the Supreme Judicial Court for Suffolk County:

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

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, (Gaziano, 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: March 21, 2024