

IN RE: JAMES F. MEARS, JR.

BBO # 544274

NO. BD-2024-005

Order (Term Suspension) entered by Justice Wendlandt on January 10, 2024, with an effective date of February 9, 2024.¹

The respondent was suspended for varied misconduct causing harm in two real estate transactions, including two false notarizations, and a materially false representation to a lender.

SUMMARY²

The respondent stipulated to misconduct in two real estate transactions. In the first, the respondent met two brothers, David and Gregg, and signed a fee agreement with David. David formed a corporation to purchase a restaurant and land, naming Gregg as the sole member of the corporation. The respondent believed he represented both brothers. He communicated through an email address that bore Gregg's name only, and believed he was communicating with Gregg. In fact, he was communicating only with David who, likely because of a prior felony conviction, pretended to be Gregg, secured financing for the restaurant using Gregg's name, forged Gregg's name to closing documents including a promissory note and mortgage, and then forged Gregg's signature on a CORI Form David filled out to get a liquor license for the restaurant. The respondent had not witnessed the signing of the CORI form but, nonetheless, notarized it, attested that Gregg had appeared before him, and forwarded the form to state and local authorities in support of the liquor license endeavor. As a result of these actions, Gregg was sued by a creditor, and the lender subsequently demanded payment from Gregg based on his alleged guaranty.

The second matter again involved David, this time acting through a corporation known as the Apponaug Group, and attempting to purchase a Rhode Island restaurant. David secured funding from the same lender for the restaurant, but not for an adjacent lot, which he also wanted. The lot was owned by a trust, whose trustees were an elderly couple with a life estate in the lot. David introduced the respondent to the couple's son, who falsely claimed to have authority to sell the lot, and who signed the P&S the respondent had prepared with a \$225,000 sale price. The respondent did not confirm that the son in fact had authority to sell. The respondent drafted a deed for the lot and sent it to the son and the lender's counsel. Shortly thereafter, David informed the respondent that the terms of the sale of the lot had changed; it now included additional properties, and the price had climbed to \$350,000. David produced a receipt from the trust stating that it had received \$350,000.

In fact, the elderly trustees had no knowledge of the sale and had not received \$350,000. In a phone call with David, the son and a third person who identified himself as one of the trustees, the respondent told the trustee that he and his wife should sign the deed and trustee certificate. The next day, the respondent sent a materially false and misleading email to the lender's counsel, stating among other lies that he had seen the trustees. When David produced a signed deed and trustee certificate, the respondent falsely notarized the trustees' signatures on the deed, stating that they had personally appeared before him when they had not. The deed was recorded and, in due course, the trustees learned about it and filed a lawsuit against numerous parties, including the respondent.

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

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

The respondent's misconduct violated Mass. R. Prof. C. 1.1, 1.3, 4.1, 5.5 (a) and 8.4(c) and (h).

There were no factors in mitigation. Although the parties stipulated that there were no factors in aggravation, they agreed that there was harm to several individuals or entities: Gregg; the elderly trustees; and the lender. Harm is generally considered an aggravating factor.

On December 11, 2023, the Board of Bar Overseers voted to recommend to the SJC that the respondent be suspended from the practice of law for six months. On January 10, 2024, Justice Wendlandt ordered the respondent suspended for six months.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-2024-005

IN RE: JAMES F. MEARS, JR.

ORDER OF TERM SUSPENSION

This matter came before the Court, Wendlandt, J., on an Information and Record of Proceeding pursuant to S.J.C. Rule 4:01, § 8(6), with the Recommendation and Vote of the Board of Bar Overseers (Board) and the stipulation of the parties filed by the Board on January 9, 2024. Upon consideration thereof, it is ORDERED that:

1. James F. Mears, Jr. is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of six (6) months. In accordance with S.J.C. Rule 4:01, § 17(3), the suspension shall be effective thirty 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 fourteen (14) 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 twenty-one (21) 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.

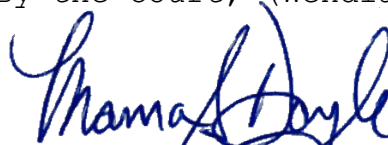
4. Within twenty-one (21) days after the entry date of this Order, the lawyer shall file with the Clerk of the Supreme Judicial Court for Suffolk County:

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, (Wendlandt, J.)

A handwritten signature in blue ink, appearing to read "Maura S. Doyle". The signature is written in a cursive, flowing style with a large initial "M".

Maura S. Doyle, Clerk

Entered: January 10, 2024