

IN RE: HUGH J. FLYNN

NO. BD-2020-067

S.J.C. Judgment Accepting Affidavit of Resignation As A Disciplinary Sanction entered by Justice Cypher on November 2, 2020, with an effective date of December 2, 2020.¹

SUMMARY²

The respondent, Hugh J. Flynn, was admitted to practice on December 12, 1973. Represented by counsel, he submitted an affidavit of resignation dated August 27, 2020, and a revised affidavit dated September 29, 2020, in which he admitted the following could be proved by a preponderance of the evidence: The respondent represented a client from August 8, 2014 until her death on January 25, 2018. During that time, he did legal and non-legal work under a durable power of attorney, including probating the estate of the client's husband and drafting a will for the client in December 2016. The respondent failed to provide to the client a written statement of the scope of the engagement and the basis of the fee. He charged his legal rate (\$200/hour) for all of his services, both legal and non-legal, which included paying the client's utility bills and her assisted living facility bills. The respondent failed to keep contemporaneous time records but merely estimated, on a monthly basis, what he thought he was owed and then paid himself that amount from the client's accounts. The respondent never sent invoices to the client before paying himself. He also failed to maintain complete records of the receipt, maintenance and disposition of fiduciary funds in his client fund accounts and failed to perform three-way reconciliations pursuant to Mass. R. Prof. C. 1.15(f)(1)(E). He further admitted that bar counsel could prove that he violated Mass. R. Prof. C. 1.5(a) (charging a clearly excessive fee), 1.5(b)(1) (failing to give the client a written statement of the basis or rate of the fee and the expenses), 1.15(d)(2) (foreach withdrawal, failing to give the client a written itemized bill or accounting, showing the services rendered and the amount to be withdrawn, the amount and date of withdrawal, and the remaining balance) and 1.15(f) (failing to keep complete accounting records of the receipt, maintenance, and disposition of trust property).

The Board of Bar Overseers voted on October 13, 2020, to accept the respondent's affidavit of resignation. An Information was filed with the Supreme Judicial Court on October 27, 2020. On November 2, 2020, the Court (Cypher, J.), issued an order accepting the respondent's affidavit of resignation as a disciplinary sanction.

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 Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-2020-067

IN RE: HUGH J. FLYNN

JUDGMENT ACCEPTING AFFIDAVIT OF RESIGNATION
AS A DISCIPLINARY SANCTION

This matter came before the Court, Cypher, J., presiding, on an Affidavit of Resignation pursuant to S.J.C. Rule 4:01, § 15 submitted by Hugh J. Flynn, a letter from assistant bar counsel to general counsel dated September 24, 2020, recommending that Hugh J. Flynn's affidavit of resignation be accepted as a disciplinary sanction, along with the Recommendation and Vote of the Board of Bar Overseers (Board) filed by the Board on October 27, 2020.

Upon consideration thereof, it is ORDERED and ADJUDGED:

1. that Affidavit of Resignation of Attorney Hugh J. Flynn be, and hereby 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 shall be effective thirty (30) 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 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 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 as a disciplinary sanction; that he is disqualified from acting as a lawyer after the effective date of the resignation; 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 as a disciplinary sanction and, as a consequence, is disqualified from acting as a lawyer after the effective date of the resignation;

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; and

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

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, (Cypher, J.)

/s/ Maura S. Doyle

Maura S. Doyle, Clerk

Entered: November 2, 2020