

**IN RE: MICHAEL O'REILLY**

**BBO # 380015**

**NO. BD-2020-080**

**Corrected Order (Affidavit of Resignation as A Disciplinary Sanction) entered by the Massachusetts Board of Bar Overseers of the Supreme Judicial Court on December 28, 2020, with an effective date of February 6, 2021.<sup>1</sup>**

*The respondent resigned as a disciplinary sanction for repeatedly disobeying a court order concerning the disbursement of a client's settlement funds, intentionally misusing client funds with deprivation, making material misrepresentations of fact to the client's successor counsel concerning the funds, and violating numerous provisions of the rules pertaining to IOLTA accounts.*

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

On June 24, 2014, the respondent was retained by a client to represent him in connection with injuries sustained in a motor vehicle accident. Subsequent to the accident, the client suffered a severe reaction to medication in the hospital, resulting in a severe, permanent disability. The respondent settled the case on May 23, 2015. Due to a contested petition for appointment of the client's guardian, the probate court, aware of the impending payment of the settlement proceeds, issued an order on June 15, 2015 (Court Order), prohibiting the respondent from disbursing proceeds of the settlement to the guardian absent a specific written court order.

After the settlement fund were received, the respondent kept the funds in his IOLTA account, instead of a separate interest-bearing account in the client's name, even though he understood that the funds were not nominal and would be held for longer than a short period of time, in violation of Mass. R. Prof. C. 1.15(e)(6).

On June 19, 2015, the respondent paid himself the agreed-to fee in the case of \$33,333 as authorized by the Court Order. He deposited the fee into his operating account. From that fee, he paid \$8,333 to the client's guardian. In 2016, and in violation of the Court Order, the respondent then withdrew \$8,333 of the settlement funds and paid it to himself, in violation of Mass. R. Prof. C. 1.15(b), 3.4(c), 8.4(c), 8.4(d) and 8.4(h).

From 2016 to 2018, the respondent disbursed, without court authority, the remaining settlement funds to pay the client and the client's creditors, in violation of the Court Order and in violation of Mass. R. Prof. C. 3.4(c), 8.4(c), 8.4(d) and 8.4(h).

---

<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.

When the client's new counsel requested an accounting of the settlement proceeds, the respondent misrepresented the actual dates of the disbursement of the settlement funds, in violation of Mass. R. Prof. C. 4.1(a), 8.4(c) and 8.4(h). To the extent that the respondent misused any client funds, he has repaid those funds to the client.

At all relevant times, the respondent failed to keep accurate and complete records of his IOLTA account, in violation of Mass. R. Prof. C. 1.15(f).

In 2016, the respondent earned a large contingent fee in another matter. He kept his fee in his IOLTA account and withdrew parts of the fee in smaller accounts over time, in violation of Mass. R. Prof. C. 1.15(b)(2)(ii). He also withdrew part of this fee in cash, in violation of Mass. R. Prof. C. 1.15(e)(4).

On November 18, 2020, the respondent submitted an affidavit of resignation as a disciplinary sanction. On December 14, 2020, the Board voted to accept respondent's affidavit of resignation as a disciplinary sanction. On December 23, 2020, the Court (Kafker, J.) so ordered and a corrected judgment accepting the affidavit of resignation as a disciplinary sanction was entered on December 28, 2020. The effective date of the resignation was extended by order of the Court to February 6, 2021.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
NO: BD-2020-080

IN RE: MICHAEL O'REILLY

CORRECTED  
JUDGMENT ACCEPTING AFFIDAVIT OF RESIGNATION  
AS A DISCIPLINARY SANCTION

This matter came before the Court, Kafker, J., presiding, on an Affidavit of Resignation pursuant to S.J.C. Rule 4:01, § 15 submitted by Michael O'Reilly, a letter dated November 18, 2020 from assistant bar counsel to general counsel requesting that the affidavit be accepted as a disciplinary sanction, along with the Recommendation and Vote of the Board of Bar Overseers (Board) filed by Board on December 18, 2020.

Upon consideration thereof, it is ORDERED and ADJUDGED:

1. that the Affidavit of Resignation of Attorney Michael O'Reilly be, and is 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 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, (Kafker, J.)

/s/ Maura S. Doyle

Maura S. Doyle, Clerk

Entered: Nunc pro tunc  
December 23, 2020