

**IN RE: STEVEN MICHAEL DWYER**

**BBO # 692553**

**NO. BD-2021-078**

**Order (Term Suspension/Stayed) entered by Justice Gaziano on January 5, 2022.<sup>1</sup>**

*For varied misconduct and recordkeeping violations, the respondent received a six-month suspension, stayed for one year, on the condition that he obtain mentoring in accordance with a one-year mentoring agreement.*

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

The parties stipulated to misconduct charged in a three-count petition for discipline. Count One alleged that, in connection with the respondent's work as a conservator for a mentally compromised ward, he failed to pursue client goals and failed to act with diligence in connection with, among other things, an application for long-term nursing home care benefits and payment of nursing home costs; he disobeyed obligations under probate court rules or orders concerning accountings; and he charged clearly excessive fees while failing to render a bill for same. The misconduct under Count One violated Mass. R. Prof. C. 1.2 (pursue client goals), 1.3 (diligence), 3.4(c) (knowing disobedience of obligations under rules of tribunal), 1.5(a) (clearly excessive fees), and 1.15(d)(2) (failing to provide invoice for fees before paying self from conservator account).

Count Two alleged that, to refund fees to one client ("Client A"), the respondent negligently misused \$600 in retainer funds of another client ("Client B"). This occurred because the respondent had failed to restore to his IOLTA account the amount of the fee payment to himself that he intended to refund to Client A following Client A's objections to the bill. Payments to himself for the work for Client B, however, whose retainer he had negligently misused, caused the check to Client A to be dishonored, resulting in failure to refund all unearned fees. The misconduct charged under Count Two violated Mass. R. Prof. C. 1.15(b) (segregation and protection of client funds).

Count Three alleged IOLTA recordkeeping lapses, in violation of Mass. R. Prof. C. 1.15(f)(1)(B), (C), (D), and (E) (check register; individual client ledgers; bank fee ledger; three-way reconciliations).

In aggravation, the parties stipulated that the respondent engaged in multiple rule violations and that his misconduct under Count One placed a vulnerable person at risk. In mitigation, the respondent's inexperience contributed to his misconduct; he has since

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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.

obtained the assistant of LOMAP, LCL, his own support staff, and OBC's trust account training program. In addition, he has agreed to refund half of the fees he collected as conservator, and has agreed to enter into a one-year mentoring agreement.

The parties filed a stipulation as to the misconduct and rule violations and jointly recommended to the Board a six-month suspension, stayed for one year, on the condition that the respondent obtain mentoring for one year in accordance with a mentoring agreement attached to their stipulation. By vote dated September 13, 2021, the Board of Bar Overseers recommended to the S.J.C. that it accept the parties' stipulation to a six-month suspension, stayed for one year, on the condition that the respondent obtain mentoring for one year.

On January 5, 2022, Justice Gaziano imposed a six-month suspension, stayed for one year, on the condition that he obtain mentoring in accordance with a one-year mentoring agreement.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
NO: BD-2021-078

IN RE: Steven Michael Dwyer

ORDER OF TERM SUSPENSION/STAYED

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) and the stipulation of the parties filed by the Board on December 27, 2021. Upon consideration thereof, it is ORDERED that:

1. Steven Michael Dwyer is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of six (6) months, with the execution of the suspension stayed for a period of one (1) year on the condition that he obtain mentoring for one (1) year from the entry date of this order, in accordance with the mentoring agreement attached hereto and incorporated herein as Exhibit A.

2. The lawyer shall comply with the aforementioned condition of this order and remain in compliance throughout the one (1) year

period. If the lawyer fails to comply with this order, the Office of Bar Counsel may petition this Court for the immediate imposition of the six (6) month suspension.

3. After one (1) year from the entry date of this Order, the lawyer may file an affidavit of compliance with the Office of Bar Counsel and the Clerk of the Supreme Judicial Court for the County of Suffolk, together with proof of his successful completion of the condition of this order. Upon receipt, and with the assent of the Office of Bar Counsel, the lawyer may then request of this Court issue an order that he is no longer subject to the six (6) month suspension that gave rise to the petition for discipline.

By the Court, (Gaziano, J.)

/s/ Maura S. Doyle

Maura S. Doyle, Clerk

Entered:  
January 5, 2022

**MENTORING AGREEMENT**

Steven Michael Dwyer ("respondent") and Kenneth J. DeMoura ("mentor") hereby agree as follows:

1. This agreement is entered into in compliance with the conditions and terms of the respondent's agreed-to stipulation of discipline.

2. The mentor has reviewed the Petition for Discipline dated March 4, 2021 and is generally aware of the circumstances leading to the respondent's suspension from the practice of law.

3. From and after the date of the respondent's resumption of active practice (whether full-time or part-time) and for one year thereafter, the respondent shall consult and meet with the mentor under the following terms and conditions:

A. The respondent and mentor shall meet in person, or by ZOOM or other video platform, on a monthly basis, to discuss respondent's practice management and administration, and respondent's cases, including whether the respondent is maintaining adequate case management, diligently pursuing his current cases, and maintaining appropriate communication with clients and other parties. The respondent shall also consult with the mentor as necessary or appropriate, to ask mentor questions concerning matters that respondent believes may affect his ethical or professional responsibility.

B. The mentor shall make quarterly reports to Bar Counsel on the topics set forth in subparagraph A above. In addition and without limitation, the mentor shall report forthwith to Bar Counsel notice of any material violation of this agreement by respondent.

C. Should the mentor become unwilling or unable to serve during the one-year period, the respondent shall notify the Bar Counsel forthwith and shall promptly propose a substitute mentor, subject to Bar Counsel's agreement, under the same terms as are set forth in this agreement.

4. The mentor shall treat as confidential all communications with the respondent pursuant to this agreement in accordance with Mass. R. Prof. C. 1.6(c). The respondent consents to the disclosure by mentor to Bar Counsel of any information requested by Bar Counsel and provided by the respondent concerning the respondent's compliance with this agreement.

5. This agreement shall terminate at the end of one year after the effective date of the SJC order of stayed suspension against the respondent, so long as the respondent has complied with the conditions contained herein.

6. This is a mentorship agreement. It is not an agreement for mentor to provide any legal services for respondent or his clients, or to supervise respondent's practice or assume any responsibility for respondent's practice, his clients or his clients' matters. Mentor may rely on the statements and representations made by the respondent and has no independent duty to verify or confirm the information being provided by respondent. Nothing in this agreement shall create an attorney-client relationship between the mentor and the respondent or the mentor and any of respondent's clients. Mentor shall not, and shall not be obligated to, provide legal advice to respondent or his clients, or communicate with respondent's clients regarding respondent's representation of their matters.

Date: 12/23/21

Date: 12/23/21

Date: 12/27/21

Date: 12/21/21

  
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Respondent

  
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Counsel for Respondent  
s/ Robert M. Daniszewski

Assistant Bar Counsel

  
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Mentor