

IN RE: GEORGE A. FAIRBANKS, III

S.J.C. Judgment of Disbarment entered by Justice Spina on December 18, 2001, with an effective date of January 17, 2002.¹

SUMMARY²

The respondent was admitted to practice on December 11, 1974. He last engaged in the practice of law in or about December 1999.

On December 12, 2000, Bar Counsel filed an eleven-count petition for discipline against the respondent. In pertinent part, the petition alleged as follows.

Between 1992 and 1999, the respondent misused funds entrusted to him by clients in two unrelated matters for his own personal or business purposes, with actual deprivation resulting. In addition, the respondent failed to maintain complete records of the handling, maintenance, and disposition of the funds and failed to promptly and accurately account for the maintenance of the funds. In one matter, the client was finally repaid in 1999. In the other, the respondent still has not accounted for over \$10,500.00 and has not made any restitution to the client. The respondent's conduct in these matters was in violation of Canon One, DR 1-102(A)(6), Canon Nine, DR 9-102(A) and 9-102(B)(3) and (4), and Mass. R. Prof. C. 1.15(b).

In three other cases, the respondent neglected legal matters entrusted to him, in violation of Canon Six, DR 6-101(A)(3), and Mass. R. Prof. C. 1.3. In one of the cases, an appeal that had merit was dismissed as a result of the respondent's failure to pursue his client's objectives, in violation of Mass. R. Prof. C. 1.2. In that same case, the respondent failed to adequately communicate with the client, in violation of Mass. R. Prof. C. 1.4. In another of the cases, the respondent failed to account for or refund the unearned portion of the client's retainer and failed to promptly deliver the client's file upon request in violation of Canon Two, DR 2-110(A)(3) and (4), Mass. R. Prof. C. 1.15(a) and (b), and Mass. R. Prof. C. 1.16(e).

In three additional cases, the respondent failed to account for retainers received or to refund any unearned retainers after the termination of his representation of the clients. The respondent's conduct in these matters was in violation of Mass. R. Prof. C. 1.15 (a) and (b) and Mass. R. Prof. C. 1.16(d). The respondent's failure to acknowledge his obligation to those clients or to make any good faith effort to pay any portion of those obligations adversely reflected on his fitness to practice law, in violation of Mass. R. Prof. C. 8.4(h). In one of the cases, the client obtained a judgment against the respondent for the full amount of the retainer that she had paid, plus costs. The respondent failed to comply with the terms of the judgment and failed to make any effort to pay any portion of the judgment, in violation of Mass. R. Prof. C. 8.4(d). In two of the cases, the respondent failed to communicate with the clients regarding the status of their claims, in violation of Mass. R. Prof. C. 1.4. In one of those matters, the respondent also failed to return the file upon request after his services were terminated, in violation of Mass. R. Prof. C. 1.16(e).

In two more cases, the respondent failed to promptly return client files upon request after his representation of those clients was terminated. His conduct in these matters was in violation of Mass. R. Prof. C. 1.16(e).

The respondent also failed to cooperate with Bar Counsel. He failed to answer four disciplinary complaints filed against him and did not appear when subpoenaed. This conduct

was in violation of S.J.C. Rule 4:01, § 3, and Mass. R. Prof. C. 8.4(g).

In aggravation, the respondent had received a public censure in 1992 for failing to report and remit fees to the law firm by which he was then employed and instructing an associate to do the same. In further aggravation, the respondent failed to cooperate in the disciplinary proceedings as described below.

On December 12, 2000, Bar Counsel filed a petition for discipline against the respondent. After purporting voluntarily to resign from the bar, the respondent contended that the Board had no jurisdiction to discipline him. The respondent failed to file an answer to the petition in conformance with the requirements of the Board of Bar Overseers Rule 3.15(d) and failed to participate in a scheduled pre-trial conference. Pursuant to S.J.C. Rule 4:01, § 8(3), the allegations were therefore deemed admitted. On September 10, 2001, the Board of Bar Overseers voted to recommend to the court that the respondent be disbarred and on December 18, 2001, the Supreme Judicial Court for Suffolk County so ordered, rejecting his claim that his proffered resignation had divested the Board and the Court of jurisdiction over him.

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 before the Court.

Please direct all questions to webmaster@massbbo.org.
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