

## IN RE: WARD L. THRASHER

S.J.C. Order of Term Suspension entered by Justice Cordy on April 26, 2002, with an effective date of May 26, 2002.<sup>1</sup>

SUMMARY<sup>2</sup>

The respondent accepted an appointment as the fiduciary of a Connecticut Estate in January of 1995 without having any experience in probate, estate law, or estate tax. The respondent did not retain separate counsel for the Estate and, instead, he undertook himself to provide services both as an attorney and executor. Over the next four years, the respondent failed to conclude the administration of the Estate. He also failed to pay the Estate's succession tax liability and, in breach of his fiduciary duty, he occupied rent-free one unit of a two-family residential property belonging to the Estate ("Estate property").

In December of 1998, the respondent filed his first account as executor with the probate court for the period of October 1994 to December of 1998. In September of 1999, the respondent filed a revised account for the period between October of 1994 and September of 1999. The respondent breached his fiduciary duty to the Estate by failing to appropriately account for the Estate's assets in both of these accounts. The respondent's accounts listed joint assets not properly included in the probate accounting and the respondent showed \$5,086.42 paid to himself as attorney's fees, an amount that in itself was clearly excessive. In addition, the respondent claimed to be owed a further \$21,000 for alleged improvements to the Estate property (for which he presented no invoices) and \$10,000 as a fiduciary fee.

In March of 2000, the probate court removed the respondent as executor, finding that the respondent had breached his fiduciary duty to the Estate and that he had failed to account for all money and property coming into his hands. Further, the probate court ordered the respondent to repay to the Estate \$5,086.42 in attorney's fees that the respondent had paid to himself; to pay \$7,200 in rent for a nine-month period that the respondent had occupied the Estate property; and to pay \$7,139 with interest to reimburse the Estate for the accrued interest on the succession tax balance that resulted from the respondent's negligence. The probate court disallowed the respondent's request for a \$10,000 fiduciary fee and reimbursement of \$21,000 for alleged improvements to the Estate property.

During Bar Counsel's investigation, the respondent failed timely to provide Bar Counsel with requested information and intentionally misrepresented the status of the appeal of the probate court order against him. The respondent alleged that the Estate "ha[d] been made whole through an action on a probate bond" and that the court's "order is still pending appeal as noted in [respondent's] June 27, 2000 letter." The respondent's appeal, however, was not timely filed and the total face value of the bond would have been insufficient to satisfy the court's order against the respondent exclusive of interest.

The respondent's failure timely to cooperate with Bar Counsel's investigation violated Mass. R. Prof. C. 8.4(g) and Supreme Judicial Court Rule 4:01, § 3. The respondent's misrepresentation to Bar Counsel concerning an appeal of the March 8th order and satisfaction of the March 8th order violated Mass. R. Prof. C. 8.4(c). The respondent's failure properly to prepare and file succession tax returns for the Estate constituted a failure to provide competent representation to a client in violation of Mass. R. Prof. C. 1.1. The respondent's failure during approximately four years to conclude the administration of the Estate constituted a failure to handle a client matter with reasonable diligence in violation of Mass. R. Prof. C. 1.3. The respondent's

payment to himself of \$5,086.42 in attorney's fees constituted a clearly excessive fee in violation of Mass. R. Prof. C. 1.5. The respondent's occupancy of one unit rent-free in the Estate property while simultaneously acting as attorney and fiduciary for the Estate constituted a conflict of interest in violation of Mass. R. Prof. C. 1.7(b). The respondent's failure to file an appropriate account of his handling of the Estate's assets is in violation of Mass. R. Prof. C. 1.15(a).

This matter came before the Board on a stipulation of facts and disciplinary violations and a joint recommendation for a two-year suspension. On April 11, 2002, the Board of Bar Overseers voted to accept the stipulation and to recommend the agreed upon disposition to the Supreme Judicial Court. The Court so ordered on April 26, 2002.

<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 Board of Bar Overseers based on the record before the Court.

Please direct all questions to [webmaster@massbbo.org](mailto:webmaster@massbbo.org).

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