

IN RE: SHAWN C. SALTER

S.J.C. Order of Term Suspension entered by Justice Greaney on July 30, 2003, with an effective date of August 29, 2003.¹

SUMMARY²

The respondent was suspended for eighteen months for his misconduct in three matters, as well as failure to cooperate with Bar Counsel's investigation.

In the first matter, the respondent was retained in October 1999 by to represent a defendant on the appeal of his criminal conviction for drug trafficking. The respondent was paid \$10,000 plus an additional \$1500 for trial transcripts. The respondent never filed an appellate brief on behalf of the client, in violation of Mass. R. Prof. C. 1.3, and stopped communicating with the client in April 2001, in violation of Mass. R. Prof. C. 1.4. The client wrote to the respondent in February 2002, and discharged him as appellate counsel. He also requested an accounting of the funds that he had paid to the respondent and refund of any unearned fee. The respondent failed to reply the client's telephone calls and letters, failed to withdraw after being discharged in violation of Mass. R. Prof. C. 1.16 (a), failed to account for his \$10,000 fee in violation of Mass. R. Prof. C. 1.15 (b), and failed to return any unearned fee in violation of Mass. R. Prof. C. 1.15 (b) and 1.16 (d).

In the second matter, the respondent was retained in May 2001, to represent a defendant on drug trafficking charges pending in district court. The district court charges were dismissed after the client was indicted and arraigned in Suffolk Superior Court. The client decided to discharge the respondent in October 2001, and retain new counsel. Successor counsel wrote to the respondent on October 26, 2001 and requested that he send the client's file, an accounting of his services, and a refund of any unearned fees. The respondent failed to reply to the successor counsel's letter and did not provide the file, accounting or refund, all in violation of Mass. R. Prof. C. 1.4, 1.15 (b), 1.16 (d) and (e)

In the third matter, the respondent was assigned by the Committee for Public Counsel Services to review the criminal conviction of a defendant to determine whether or not there were arguable grounds for a motion for new trial. The respondent was to proceed with the motion if he determined that there was basis to file it. The respondent determined that there were grounds to support a motion and he filed a motion for new trial on behalf of the client in June 2001, together with a request for a hearing on the matter. The respondent made some follow-up telephone calls to the clerk's office to attempt to schedule the hearing. However, the court took no action. The respondent failed to pursue the matter further, in violation of Mass. R. Prof. C. 1.3 and then stopped communicating with the client in October 2001, in violation of Mass. R. Prof. C. 1.4. The client contacted the Committee for Public Counsel Services for assistance, and on or about January 17, 2002, new counsel was appointed to represent the client. Successor counsel wrote to the respondent on June 27, 2002 and requested that the respondent send him the client's file. The respondent failed to reply to successor counsel's letter and did not provide him with the file in violation of Mass. R. Prof. C. 1.15 (b), and 1.16(d) and (e)

The respondent also failed to respond to Bar Counsel's inquiries regarding these matters, resulting in the issuance of a subpoena for his appearance at the Office of Bar Counsel on August 27, 2002. The respondent failed to appear pursuant to the subpoena. The respondent's conduct was in violation of Supreme Judicial Court rule 4:01 § 3 and Mass. R. Prof. C. 8.4(g).

In aggravation, the respondent failed to file an answer to the petition for discipline as required by Supreme Judicial Court Rule 4:01, § 8(3) and the Rules of the Board of Bar Overseers § 3.15(c), in further violation of Supreme Judicial Court Rule 4:01, § 3(1)(c) and Mass. R. Prof. C. 8.4(d), (g) and (h).

The respondent was admitted to practice in Massachusetts on December 21, 1994. He was administratively suspended on June 10, 2002, for failure to register with the Board of Bar Overseers in accordance with the provisions of S.J.C. Rule 4:02.

Bar Counsel filed a petition for discipline on February 5, 2003. Because the respondent failed to file an answer, the charges were deemed admitted pursuant to § 3.15(e) of the Rules of the Board of Bar Overseers. On May 19, 2003, the Board voted to recommend to the Supreme Judicial Court that the respondent be suspended for eighteen months. On July 30, 2003, the Court so ordered.

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.

© 2003. Board of Bar Overseers. Office of Bar Counsel. All rights reserved.