

IN RE: MYRA JONES ROMAIN

S.J.C. Judgment of Disbarment entered by Justice Spina on May 4, 2004, with an effective date of June 3, 2004.<sup>1</sup>

SUMMARY<sup>2</sup>

Starting in 1996, the respondent represented a client in negotiations concerning a tax debt owed to the Internal Revenue Service by a corporation. The client was president and chief executive officer of the corporation and the taxes were being levied against him personally.

Between November 12, 1996, and May 31, 2000, the respondent deposited \$88,255.78 of corporate funds into an escrow account. Between November 30, 1996, and May 31, 2000, the respondent disbursed \$34,180.00 to or for the benefit of the corporation from the escrow account.

Between January 27, 1997, and July 1, 1997, the respondent intentionally misappropriated a total of \$43,850.00 from the escrow account and used the funds for her own personal or business purposes. Between January 28, 1997, and November 26, 1997, the respondent deposited \$15,000.00 of her personal funds into the account as partial reimbursement of the funds misappropriated. Between November 3, 1998, and January 18, 2000, the respondent intentionally misappropriated an additional \$26,100.00 from the escrow account and used the funds for personal or business purposes.

The client died on May 31, 2000. At time of his death, the escrow account should have held approximately \$55,000.00. Instead, as a result of the respondent's misappropriation of funds, the balance of the escrow account was \$101.46.

On May 30, 2001, the respondent refinanced her home. The net proceeds in the amount of \$113,774.67 were wired into the respondent's IOLTA account. On June 7, 2001, the respondent transferred \$55,000.00 of those funds into the escrow account as reimbursement for the funds misappropriated.

In July of 2001, the client's daughter petitioned the Probate Court to be appointed executor of her father's estate and on August 15, 2001, she was appointed. Between July 5, 2001, and February 19, 2002, the respondent transferred \$15,118.07 from the escrow account to her IOLTA account. Per the instructions of the daughter, the respondent disbursed \$14,812.81 from her IOLTA account to or for the benefit of the estate. However, the respondent intentionally misappropriated the remaining \$305.26 of estate funds in her IOLTA account for personal or business purposes unrelated to the estate.

Between July 30, 2001, and February 6, 2003, the respondent, without the knowledge or authorization of the daughter, transferred \$40,310.04 from the escrow account to another account. The respondent disbursed \$8,075.84 from the account to or for the benefit of the estate. The respondent then intentionally misappropriated the remaining \$32,234.20 of estate funds in the account for personal or business purposes unrelated to the estate.

On November 18, 2002, the respondent forwarded to the daughter a check in the amount of \$25,000.00 drawn on the expense account. The accompanying letter indicated that the check

represented “the bulk of the money left” in the escrow account and that a full accounting would be forthcoming. The check was postdated December 3, 2002, and was not negotiated because there were insufficient funds in the expense account.

As of February 12, 2003, approximately \$33,000.00 of estate funds should have remained undisbursed in the escrow account. Instead, as a result of the respondent’s misappropriation of estate funds, the balance of the escrow account was \$1.99.

On or about January 29, 2003, the respondent again refinanced her home. The net proceeds in the amount of \$37,129.34 were wired into the respondent’s expense account on February 6, 2003. On February 12, 2003, the respondent used those funds to pay the daughter \$31,846.34, the amount the respondent erroneously calculated was owed the estate as of that date. As of October 27, 2003, the respondent continued to owe the estate at least \$885.66.

The respondent’s intentional misappropriation of client funds with intent to deprive the client of the funds, at least temporarily, and with actual deprivation resulting was in violation of Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c) and (h).

In addition to all of the above, the respondent failed to cooperate with Bar Counsel and failed to participate in the disciplinary process. The failure to cooperate in the disciplinary process is itself misconduct (S.J.C. Rule 4:01, § 3(c)) and is appropriately considered in aggravation of other misconduct.

The respondent failed to file an answer to the petition. Pursuant to S.J.C. Rule 4:01, § 8(3), the allegations were therefore deemed admitted. On March 8, 2004, the Board of Bar Overseers voted to recommend to the court that the respondent be disbarred and on May 4, 2004, the Supreme Judicial Court for Suffolk County so ordered.

<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.

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