

IN RE: PAUL JOSEPH HEALY

S.J.C. Judgment of Disbarment entered by Justice Cordy on December 29, 2004, with an effective date of January 28, 2005.¹

SUMMARY²

In January 1989, the Norfolk Probate and Family Court appointed the respondent as successor trustee to two inter vivos trusts and one testamentary trust with combined assets of approximately \$620,000. By May 2000, the total combined value of the three trusts was approximately \$990,000. Between May 12 and May 31, 2000, the respondent transferred all of the funds of the three trusts into brokerage accounts at Morgan Stanley held in his own name as "Trustee" for each of the three trusts.

Between May 30, 2000, and December 31, 2003, the respondent, without any right or entitlement, intentionally issued checks to himself from the three trust accounts totaling more than \$241,000. The respondent commingled these funds with his own funds and converted the funds to his own use with the intent to deprive the trusts of these assets at least temporarily and with actual deprivation to the trust and the trust beneficiaries resulting.

Due to the respondent's defalcations, there were insufficient funds in the accounts for the two inter vivos trusts to fund the monthly distributions due to the trust beneficiaries. To conceal his misappropriation of trust funds, the respondent intentionally and wrongfully transferred funds from the testamentary trust to the inter vivos trusts to cover the distribution checks the respondent issued to the trust beneficiaries.

On September 5, 2002, one of the trust beneficiaries requested an accounting for the trusts. The respondent received this request in due course, but he failed to provide any accountings. Between November 6, 2002, and April 25, 2003, an attorney representing the beneficiary made several requests to the respondent on the beneficiary's behalf for information relating to the respondent's handling of the trusts and for an accounting of trust activity. The respondent failed to provide the requested information and accountings to the attorney. The respondent also failed to file annual accountings for the testamentary trust with the Probate and Family Court, in violation of the requirements of G.L. c. 206, § 1.

By commingling trust funds with his own personal funds and by intentionally misappropriating assets belonging to the three trusts, the respondent violated Mass. R. Prof. C. 1.15(a) and (b), and 8.4(c) and (h). By failing to file annual accountings of the testamentary trust with the Probate and Family Court, the respondent violated Mass. R. Prof. C. 3.4(c), and 8.4 (d) and (h). By failing to provide an accounting of his maintenance of the two inter vivos trusts to the beneficiary, to her attorney, and to the other trust beneficiaries, the respondent violated Mass. R. Prof. C. 1.15(b).

The lawyer for the beneficiary sent a letter to the Office of Bar Counsel requesting an investigation into the respondent's failure to provide information about his handling of the trusts. In May 2003, bar counsel requested that the respondent provide an explanation and documentation about his handling of the trusts. The respondent failed to respond to this request. Bar counsel sent another letter to the respondent's counsel on November 24, 2003, demanding records and an accounting of the respondent's handling of the trusts by December

1, 2003. The letter warned that the respondent's failure to provide the requested records would result in the administrative suspension of the respondent's license to practice law pursuant to S.J.C. Rule 4:01, § 3. The respondent, without good cause, failed to provide to bar counsel an accounting in response to this demand. On January 13, 2004, the Supreme Judicial Court for Suffolk County entered an order administratively suspending the respondent from the practice of law pursuant to S.J.C. Rule 4:01, § 3(2), for his failure to cooperate in bar counsel's investigation of a complaint.

Both the court and bar counsel served a copy of the administrative suspension order on the respondent, who received it in due course by no later than January 31, 2004. The order of administrative suspension required the respondent to comply with the notice requirements of S.J.C. Rule 4:01, § 17, if the respondent was not reinstated within thirty days from the date of the order. The respondent did not provide bar counsel with the requested accountings of his handling of the three trusts and he was not reinstated by February 13, 2004. After February 13, 2004, the respondent knowingly failed to comply with the requirements of S.J.C. Rule 4:01, § 17, in violation of the requirements of S.J.C. Rule 4:01, § 3(3).

By failing without good cause to respond to requests for information from bar counsel made in the course of the processing of a complaint, the respondent violated S.J.C. Rule 4:01, § 3(2), and Mass. R. Prof. C. 8.1(b) and 8.4(g). By failing to comply with S.J.C. Rule 4:01, §§ 3(3) and 17, the respondent violated Mass. R. Prof. C. 3.4(c), and 8.4(h).

On November 15, 2004, the respondent submitted an affidavit of resignation from the practice of law pursuant to S.J.C. Rule 4:01, § 15, in which he admitted that the material facts set forth above could be proved by a preponderance of the evidence. On December 13, 2004, the Board of Bar Overseers voted to accept the respondent's affidavit of resignation and to recommend to the Supreme Judicial Court that the affidavit of resignation be accepted and a judgment of disbarment enter against the respondent. On December 29, 2004, the Court entered a judgment accepting the affidavit of resignation and disbarring the respondent, effective January 28, 2005.

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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