

IN RE: JAMES A. GLYNN, JR.

S.J.C. Order of Term Suspension entered by Justice Sosman on May 24, 2005, with an effective date of June 23, 2005.¹

SUMMARY²

On March 13, 2000, the respondent's client, a widow, died testate survived by nephews, nieces and cousins. She had no children. She died owning assets totaling less than \$120,000.00. The respondent had known the client since his childhood because the client and the respondent's mother were close friends. The respondent frequently socialized with the client and considered her to be his aunt, but he was not related to her by blood.

From 1988 until her death, the respondent performed legal and nonlegal services for the client including representing her in the sale of her home and in the preparation and execution of several wills, communicating on her behalf with health care providers, assisting her in obtaining eligibility for subsidized housing and in paying her bills, and in general assisting her in her daily life activities.

On May 15, 1995, the respondent represented the client in the sale of her home. The client netted approximately \$59,760.00 from the sale. In July 1995, the respondent prepared and the client executed an irrevocable trust. The respondent was named trustee and the client was sole beneficiary of the trust while she was alive. Upon the death of the client, the undistributed income remaining in trust was to be distributed to the respondent if he survived the client, and if not, to his children. When the trust was created, the respondent funded the trust with \$19,775.70 from the proceeds of the sale of the client's home.

Between May 26, 1996 and August 15, 1996, the respondent drafted and the client executed a series of written authorizations that permitted the respondent to withdraw a total of \$19,600 from the trust. The respondent used the sums for running his law office. The client intended each withdrawal as a gift to the respondent for personal or business purposes.

The respondent's preparation of the trust and of the authorizations, all giving the respondent gifts of substantial value, was a conflict of interest in violation of Canon Five, Disciplinary Rule 5-108.

In December 1991 the respondent drafted and the client executed a will. In July 1993 the respondent drafted and the client executed a superceding will. The 1993 will made substantial changes to dispositions in the prior will. The respondent retained the originals of both wills.

The client died on March 13, 2000. Commencing in March 2001, counsel for the executrix of the client's estate made demand upon the respondent for all wills prepared by him. The respondent timely produced the 1991 will, but did not at that time produce the 1993 will. The respondent had forgotten that he had drafted the 1993 will and did not find it in 2001 because his system for storing and indexing closed files was inadequate. On or about July 25, 2002, the respondent located the 1993 will and gave it to the executrix's attorney. However, the 1991 will had already been offered for probate. The late production of the 1993 will caused added legal expense and delay in finalizing the administration of the estate.

The respondent's failure to adequately safeguard the 1993 will, and his failure to timely produce the will upon demand by the estate, were conduct in violation of Mass. R. Prof. C. 1.15(b)(3) and (c) and Mass. R. Prof. C. 1.16(e).

In mitigation, the respondent made timely good faith efforts to rectify the consequences of his misconduct and settled all claims brought by the estate to its satisfaction.

This matter came before the Board on a stipulation of facts and disciplinary violations and a joint recommendation for discipline by a suspension of six months and one day. On May 9, 2005, the Board of Bar Overseers voted to adopt the parties' stipulation and proposed sanction. On May 24, 2005, the Supreme Judicial Court for Suffolk County 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.

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