

IN RE: LINDA W. SOLMONSON

S.J.C. Order of Term Suspension entered by Justice Cordy on December 1, 2005.¹

SUMMARY²

The respondent was suspended for one year and one day for misconduct in six unrelated client matters involving a pattern of neglect and failure to cooperate with Bar Counsel's investigations. The respondent was administratively suspended on September 16, 2003, for her failure to cooperate with Bar Counsel's investigation of one of the matters and did not comply with any of the requirements of the order of administrative suspension.

In the first matter, the respondent filed an automobile accident personal injury action for two clients in November of 2000. The named defendant filed an answer and a third party action against another person. Both the defendant and the third-party defendant filed interrogatories to be answered by the respondent's clients. Although the respondent drafted and had the clients sign answers to the interrogatories, no answers were ever served on the opposing parties, as a result of which the clients' claims were dismissed by the court by February of 2002. The respondent did not inform her clients of her failure to serve answers to interrogatories or of the dismissal of their claims, nor did she seek relief from the dismissals.

The respondent's failure to serve answers to interrogatories, thereby causing the dismissal of her clients' claims, and her failure to seek relief from the judgment of dismissal, was in violation of Mass. R. Prof. C. 1.1, 1.2(a), 1.3 and 8.4(h). Her failure to keep her clients reasonably informed of the status of their case and to notify them of the dismissal of their case was in violation of Mass. R. Prof. C. 1.4(a), 1.4(b) and 8.4(h).

In the second matter, the respondent was retained to represent a client on a slip and fall case in May of 2002. She was discharged three months later and asked to provide the client's file to successor counsel. The respondent did not provide the file until four months later. The respondent's failure to provide the client's file within a reasonable time was in violation of Mass. R. Prof. C. 1.16(e) and 8.4(h).

In the third matter, the respondent represented a personal injury client in an automobile accident case that was tried before an arbitrator in September of 2002. In November of 2002, the respondent received the arbitrator's decision, which awarded her client \$5,000; within a week the respondent also received the insurer's check for \$5,000 in payment of the award. The respondent did not promptly notify the client of the award or of her receipt of the check and did not respond to inquiries from the client about the status of the case until early January of 2003. At that point, the respondent met with the client, had her endorse the check, told her she would attempt to negotiate a chiropractor's bill of approximately \$2,961.13, and deposited the check to her IOLTA account.

The respondent withdrew her fee and costs, leaving a balance due the client of \$2,582.53. She did not provide the client with an accounting of her receipt and disbursement of the client's funds or with a written statement disclosing the outcome of the matter. From mid-January onward, the respondent did not disburse any of the remaining proceeds to the client or the chiropractor, did not respond to requests from the client for the status of the matter and did not hold the remaining proceeds in an individual interest-earning account. In January

of 2005, the respondent closed her IOLTA account, purchased a bank check payable to the client and her new lawyer and held that check through July of 2005, when the petition for discipline was filed.

The respondent's failure to promptly notify the client of the arbitrator's decision and of her receipt of the insurer's check and her failure to maintain reasonable communication with the client concerning the status of her claim were in violation of Mass. R. Prof. C. 1.4(a), 1.4(b) and 8.4(h). Her failure to promptly deliver to the client the funds to which the client was entitled were in violation of Mass. R. Prof. C. 1.15(b) [as in effect through June 30, 2004] and 8.4(h). Her failure to provide the client with an accounting of her receipt and disbursement of the client's funds and her withdrawal of funds to pay her own fees and costs without providing an accounting were in violation of Mass. R. Prof. C. 1.4(a), 1.4(b), 1.15(b) [as in effect through June 30, 2004], 1.15(c) [as in effect through June 30, 2004] and 8.4(h). Her failure to provide the client with a written statement disclosing the outcome of the matter was in violation of Mass. R. Prof. C. 1.5(c). Her failure to hold the client's funds in a trust account from mid-November of 2002 through early January of 2003, was in violation of Mass. R. Prof. C. 1.15(d) [as in effect through June 30, 2004] and 8.4(h). Her failure to hold the client's funds in an individual interest-earning trust account was in violation of Mass. R. Prof. C. 1.15(e)(ii) [as in effect through June 30, 2004] and, on and after July 1, 2004, 1.15(e)(5)(ii) [as amended effective July 1, 2004], and 8.4(h). Her failure to hold the client's funds in a trust account from January 6, 2005, onward was in violation of Mass. R. Prof. C. 1.15(b)(1) [as amended effective July 1, 2004] and 8.4(h). In mitigation of her misconduct in this matter, the respondent provided the client with her funds due from the arbitrator's award in August of 2005.

In the fourth matter, the respondent filed a personal injury action for a client against two defendants in April of 2002. The respondent failed without good cause to serve either defendant, as a result of which the action was dismissed without prejudice in August of 2002. The respondent did not notify the client of the dismissal or seek relief. In mid-2002, the respondent moved her office and did not notify the client of the new address or telephone number. Through the end of 2003, the respondent failed to respond to a number of inquiries from the client concerning the status of her case. In early 2004, the respondent contacted the client, told her she could no longer represent her and provided her with her file.

The respondent's failure to serve process on the defendants, thereby causing the dismissal without prejudice of the client's action, and her failure to seek relief from the dismissal, were in violation of Mass. R. Prof. C. 1.1, 1.2(a), 1.3 and 8.4(h). Her failure to keep the client reasonably informed of the status of her case, to notify her of the dismissal of her case and to provide her with her new office address and telephone number were in violation of Mass. R. Prof. C. 1.4(a), 1.4(b) and 8.4(h).

In two other client matters, the respondent agreed to represent the clients in personal injury claims in 2001 and 2002, respectively. From 2002 through 2004, each client made several attempts to contact the respondent concerning their cases; the respondent failed to return or otherwise respond to most of the clients' inquiries. The respondent failure to keep the clients reasonably informed of the status of their cases was in violation of Mass. R. Prof. C. 1.4(a), 1.4(b) and 8.4(h).

The respondent failed to cooperate with Bar Counsel's investigations of four of the above six client matters. She knowingly failed without good cause to respond to eight letters from Bar Counsel requesting a response to a grievance, and she failed without good cause to comply with or respond to a subpoena issued in the third matter. The respondent's failure to cooperate with Bar Counsel's investigations was in violation of Mass. R. Prof. C. 8.1(b), 8.4(d), 8.4(g) and 8.4(h), and S.J.C. Rule 4:01, § 3.

On September 16, 2003, the respondent was administratively suspended by order of a single justice of the Supreme Judicial Court for her failure to cooperate with Bar Counsel's

investigation of a grievance. The respondent failed without good cause to comply with any requirements of the order of administrative suspension, including without limitation requirements to notify clients, opposing counsel and courts of the administrative suspension, to withdraw from representing any clients, to make the files of any clients available to the clients, to close her IOLTA and other trust accounts, to properly distribute clients' funds and to file an affidavit of compliance with Bar Counsel. The respondent's failure to comply with the order of administrative suspension was in violation of Mass. R. Prof. C. 1.16(a)(1), 1.16(d), 1.16(e), 3.4(c), 5.5(a), 8.4(d) and 8.4(h), and S.J.C. Rule 4:01, §§ 3 and 17.

In mitigation of the respondent's misconduct, in 1999, she took over a large number of personal injury and domestic cases from another lawyer who had ceased practice. The respondent became overwhelmed by this practice and as a result suffered from depression for which she sought treatment.

This matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and a joint recommendation for a suspension of one year and one day. On November 14, 2005, the Board voted to accept the stipulation and the joint recommendation. On December 1, 2005, the Court entered an order suspending the respondent from the practice of law for a period of one year and one day, effective immediately.

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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