

IN RE: DANIEL JOSEPH WILKINS

S.J.C. Order of Term Suspension entered by Justice Cordy on February 9, 2006, with an effective date of March 11, 2006.¹

SUMMARY²

The respondent is a sole practitioner admitted to practice in 1986. He stipulated to the material facts charged in a two-count petition for discipline and received an indefinite suspension.

The respondent was duly admitted to the Bar of the Commonwealth in 1986. Between December 1990 and August 1999, the respondent worked as in-house counsel for the Colonial Gas Company (Colonial). In about August 1999, Colonial was purchased by KeySpan Corporation (KeySpan). After he left KeySpan in 1999, the respondent had no authority to act on behalf of Colonial or its successor, KeySpan.

In the first matter, in July 2003, the respondent was contacted by a paralegal at a law firm regarding the payoff of a lien in the amount of \$1,800 that Colonial had recorded at the Barnstable Registry of Deeds on the property of a Colonial customer. The respondent had represented Colonial in the original collection matter and appeared on the lien as Colonial's counsel.

The respondent did not inform the law firm that he did not have authority to act on Colonial's behalf. Instead, and without the knowledge and consent of KeySpan, the respondent agreed to settle the collection case for \$1,800. The firm sent the respondent a check for \$1,800 to pay off Colonial's lien.

The respondent signed the notice of dismissal, release of lien and general release falsely representing himself as the attorney for Colonial. He caused his name to be notarized on the release of lien and the general release as "the free act of Colonial Gas Company," knowing the statement to be false. The respondent filed with the Barnstable District Court the fraudulent notice of dismissal on which he falsely represented himself as the attorney for Colonial.

The respondent deposited the settlement funds to his own account and never notified KeySpan of the receipt of the funds. Between July 2003 and August 2003, the respondent intentionally converted the funds for his own business and personal purposes with actual deprivation resulting.

In January 2004, General Counsel to KeySpan determined that the respondent had settled the lien without authority and reported the matter to the Chelmsford Police. In January the respondent sent KeySpan a check for the \$1,800 from his IOLTA account to satisfy the lien. He used personal funds deposited to his IOLTA account to pay KeySpan.

The respondent's conduct in falsely representing himself as an attorney for Colonial/KeySpan to the law firm and the court, in settling KeySpan's lien without their knowledge or consent, in falsely signing the release, without KeySpan's knowledge or consent, and in filing a fraudulent notice of dismissal with the court violated Mass. R. Prof. C. 3.3 (a) (1), 3.4 (b),

4.1, 8.4(c), (d) and (h).

The respondent's conduct in intentionally converting the payoff funds due KeySpan, with actual deprivation resulting, in failing to promptly inform the KeySpan of the receipt of the settlement check, in failing to promptly pay KeySpan and in failing to maintain and safeguard the payoff funds in a designated trust account violated Mass. R. Prof. C. 1.15(a), (b) (c) and (d) and 8.4 (a), (c) and (h).

In the second matter, the respondent was contacted by a paralegal at another law firm, counsel for the lender in a refinance, regarding the payoff of a judgment in favor of Colonial against the borrowers in the amount of \$938. Again, the respondent did not inform the law firm that he did not have authority to act on Colonial's behalf.

Instead, and without the knowledge or consent of KeySpan, the respondent agreed to compromise the case for \$500. The respondent instructed the attorney to send him a check for \$500 in full settlement of the claim. The respondent falsely signed a release and notice of dismissal as attorney for Colonial.

The respondent deposited the settlement funds to his account, and he did not notify KeySpan of the settlement or receipt of settlement funds. Between October and November 2003, the respondent intentionally converted the settlement funds for his own business and personal purposes with actual deprivation resulting. The respondent has made full restitution.

The respondent's conduct in falsely representing himself as attorney for Colonial, in settling Colonial/KeySpan's judgment without KeySpan's knowledge or consent, and in falsely signing the release and notice of dismissal violated Mass. R. Prof. C. 3.4 (b), 4.1(a), 8.4(c), (d) and (h).

The respondent's conduct in intentionally converting the settlement funds due KeySpan with actual deprivation resulting, in failing to promptly inform KeySpan of the receipt of the settlement check, in failing to promptly pay KeySpan and in failing to maintain and safeguard the payoff funds in a designated trust account violated Mass. R. Prof. C. 1.15(a) and (b) and 8.4 (c) and (h).

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint recommendation for an indefinite suspension. On February 9, 2006, the Supreme Judicial Court entered an order of indefinite suspension.

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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