

IN RE: QUANG JOSEPH NGUYEN

S.J.C. Judgment of Disbarment entered by Justice Cowin on April 2, 2007.¹

SUMMARY²

The respondent was disbarred for misconduct as alleged in a three-count petition for discipline.

The first count of the petition arose from the respondent's representation of a buyer of real estate at a closing in January 2005. There was no lender involved and the funds due from the buyer were wired into the respondent's IOLTA account. At the closing, it was agreed by the parties that the respondent would withhold from the seller's proceeds, and retain in escrow, \$5000 for trash removal.

On or about February 25, 2005, the buyer paid \$3000 to a contractor to remove the trash. The respondent did not reply to the buyer's requests for reimbursement and never paid the buyer for the expenditure from the escrow funds or otherwise. The respondent closed his law office and left Massachusetts for Florida in October 2005. He closed his IOLTA account on November 10, 2005 by withdrawing the balance of \$4600 in cash.

The respondent's failure to promptly deliver the escrow funds due the buyer and the respondent's failure to account to the buyer for the escrow funds is conduct in violation of Mass. R. Prof. C. 1.15(c) and (d) and Mass. R. Prof. C. 8.4(h). The respondent's misuse of the escrow funds, with actual deprivation resulting and continuing, is conduct in violation of Mass. R. Prof. C. 1.15(b), (c), (d) and Mass. R. Prof. C. 8.4(h).

The second count of the petition involved the respondent's representation of the plaintiff in a divorce. The respondent filed the complaint for divorce in April 2005. The respondent then moved to Florida and closed his law office in October 2005.

The respondent did not intend to continue representing the client after moving to Florida. However, the client did not have a new attorney. The respondent did not file a motion with the probate court seeking permission to withdraw, did not obtain permission from the probate court to withdraw, did not return the file to the client, and otherwise took no steps to protect the client's interests upon withdrawal.

The divorce case was scheduled for a pre-trial conference on November 16, 2005. The client, who resides in Virginia, attended the pre-trial conference but the respondent failed to appear.

The respondent's withdrawal from the client's case without permission from the tribunal and without returning the file or otherwise taking steps to protect the client's interests is conduct in violation of Mass. R. Prof. C. 1.16(c) and (d).

The third count of the petition for discipline arose from the respondent's failure to cooperate with bar counsel's investigation of the first two counts. On November 16, 2005, a judge of the probate court wrote bar counsel concerning the divorce case described above. Although the respondent sent a reply to bar counsel's initial correspondence, he thereafter failed to reply

to additional letters from bar counsel sent in December 2005 and January and February 2006.

On March 15, 2006, as a result of a petition filed by bar counsel, the Supreme Judicial Court for Suffolk County entered an order of administrative suspension pursuant to Supreme Judicial Court Rule 4:01, § 3. The respondent never sought reinstatement and never filed the required affidavit of compliance with the order of suspension.

On March 17, 2006, the buyer in the first count filed her complaint with bar counsel. The respondent never replied to any communications from bar counsel as to this complaint.

The respondent's failure to cooperate with bar counsel and his failure to respond to bar counsel's inquiries is conduct in violation of Supreme Judicial Court Rule 4:01, § 3, Mass. R. Prof. C. 8.4(g), and Mass. R. Prof. C. 8.1(b). The respondent's failure to comply with the order of administrative suspension is conduct in violation of Supreme Judicial Court Rule 4:01, §§ 3 and 17, Mass. R. Prof. C. 3.4(c) and Mass. R. Prof. C. 8.4 (h).

Bar counsel filed a petition for discipline against the respondent on September 5, 2006. The respondent failed to file an answer to the petition. By letter dated September 29, 2006, the Board of Bar Overseers notified the respondent that the allegations in the petition were deemed admitted and that he had waived his right to be heard in mitigation. The respondent's failure to cooperate in the disciplinary process was considered as a matter in aggravation.

On November 13, 2006, the Board voted to recommend to the Supreme Judicial Court that the respondent be disbarred. The Court so ordered on April 2, 2007.

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 filed with the Supreme Judicial Court.

Please direct all questions to webmaster@massbbo.org.

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