

IN RE: NANCY J. SARDESON

S.J.C. Judgment of Disbarment entered by Justice Spina on June 20, 2007.<sup>1</sup>

SUMMARY<sup>2</sup>

The respondent was disbarred for misconduct arising from her actions as guardian of two children.

On March 30, 2000, the respondent was appointed guardian of the property of two minor siblings whose parents were deceased. The children's aunt was appointed guardian of their persons. The inventories filed by the respondent in the guardianships listed personal property of \$42,727.12 for each child. Real estate managed by the respondent included seven multi-unit rental properties.

The respondent's mishandling of the guardianship estates caused harm to the wards. Among other misconduct, the respondent failed to deposit certain funds to the guardianship accounts or to account for these funds; commingled real estate security deposits with other guardianship funds and failed to pay annual interest to tenants; failed to file income tax returns for the children, resulting in an assessment of penalties and interest; failed to collect and deposit rental checks, resulting in substantial lost income; and failed to pay mortgage, real estate taxes and other municipal charges in a timely manner, resulting in commencement of foreclosure proceedings on three occasions and interest, late fees and attorney's fees of over \$5000.

One of the wards turned eighteen in May 2002. The respondent failed thereafter to transfer guardianship funds to the ward in a timely manner.

On November 13, 2003, on petition of the wards, the respondent was ordered by the probate court to render accounts for both guardianships by December 17, 2003. When the respondent failed to file accounts as ordered, the probate court on March 25, 2004, removed her as guardian and a successor guardian was appointed for the property of the remaining minor ward. Following her removal on March 25, 2004, the respondent failed to transfer guardianship funds to the successor guardian until November 9, 2004.

The respondent filed an account for each estate on July 27, 2004. Among other errors, the accounts were not final accounts. When the respondent failed to file amended accounts, she was found in contempt on November 17, 2004. She never filed amended or final accounts and remains in contempt of the probate court order. The successor guardian filed suit on the respondent's bond in October 2006.

The respondent's failure to provide competent representation or to act with reasonable diligence and promptness in her role as guardian of the minor children is conduct in violation of Mass. R. Prof. C. 1.1 and 1.3.

The respondent's failure to maintain all guardianship funds in individual guardianship accounts earning interest for the estates is conduct in violation of Mass. R. Prof. C. 1.15(a) and (e) of the rule in effect through June 30, 2004.

The respondent's failure to promptly remit guardianship funds to one of the wards when she turned eighteen in 2002, and the respondent's failure after being removed in March 2004 to remit guardianship funds to the successor guardian for the other ward until November 2004, is, for conduct prior to July 1, 2004, in violation of Mass. R. Prof. C. 1.15(b) of the rule in effect through June 30, 2004 and, for conduct on and after July 1, 2004, in violation of Mass. R. Prof. C. 1.15(c) of the current rule.

The respondent's failure to prepare and file interim accounts as guardian before 2004, and her failure in and after 2004 to file either conforming interim accounts or final accounts, all as ordered by the probate court and resulting in a finding by the court of contempt that to date has not been purged, is conduct in violation of Mass. R. Prof. C. 1.3, 3.4(c) and 8.4(d) and (h). In addition, for conduct prior to July 1, 2004, the respondent is in violation of Mass. R. Prof. C. 1.15(a) of the rule in effect through June 30, 2004, and for conduct on and after July 1, 2004, the respondent is in violation of Mass. R. Prof. C. 1.15(d) of the current rule.

On October 15, 2001, the respondent as guardian received a distribution of \$40,000 from the estate of the wards' father. This sum was deposited to the respondent's IOLTA account and never transferred to the guardianship accounts. Between October 2001 and March 2002, the respondent intentionally misappropriated some or all of these funds at least in substantial part for her own personal or business purposes or those of other clients or third persons, resulting in actual deprivation to the guardianships. The respondent has never provided an accounting of this \$40,000 and the exact amount of the misappropriation is thus unknown.

The respondent's misappropriation of guardianship funds is conduct in violation of Mass. R. Prof. C. 8.4(c) and (h) and Mass. R. Prof. C. 1.15(a) and (b) of the rule in effect through June 30, 2004. The respondent's failure to account for \$40,000 in guardianship funds is, for conduct prior to July 1, 2004, in violation of Mass. R. Prof. C. 1.15(a) and (b) of the rule in effect through June 30, 2004 and, for conduct on and after July 1, 2004, in violation of Mass. R. Prof. C. 1.15 (b) and (d) of the current rule.

After the matter was referred to bar counsel by the probate court, the respondent failed to comply timely and fully with bar counsel's requests for information, requiring the issuance of two subpoenas to compel her appearance in January and March 2006. The respondent did appear in response to these subpoenas but then failed to reply to bar counsel's subsequent requests for additional information, necessitating the issuance of a third subpoena in June 2006. The respondent did not appear as required and has failed or refused to communicate with bar counsel since that date.

Upon petition filed by bar counsel pursuant to Supreme Judicial Court Rule 4:01, § 3, the Supreme Judicial Court on June 27, 2006, entered an order of immediate administrative suspension based on the respondent's failure to cooperate with bar counsel. The respondent took no steps to become reinstated and to date has failed to file an affidavit of compliance or to send notice of her suspension to clients and others as required by Supreme Judicial Court Rule 4:01, § 17.

The respondent's failure to reply to bar counsel's inquiries and to cooperate with bar counsel's investigation, necessitating the issuance of multiple subpoenas to compel her appearance and resulting in an order of administrative suspension, and the respondent's failure to comply with the terms of the order of administrative suspension, is conduct in violation of Mass. R. Prof. C. 8.4(g) and Supreme Judicial Court Rule 4:01, § 3 and § 17.

Bar counsel filed a petition for discipline against the respondent on January 31, 2007. The respondent failed to file an answer to the petition. By letter dated February 23, 2007, the Board of Bar Overseers notified the respondent that the allegations in the petition were deemed admitted and that she had waived her right to be heard in mitigation. The respondent's failure to cooperate in the disciplinary process was considered as a matter in

aggravation.

On April 9, 2007, the Board voted to recommend to the Supreme Judicial Court that the respondent be disbarred. The Court so ordered on June 20, 2007.

<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> 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](mailto:webmaster@massbbo.org).

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