

IN RE: STEVEN L. WINNIMAN

S.J.C. Judgment of Disbarment entered by Justice Spina on June 23, 2008.¹

MEMORANDUM AND JUDGEMENT

Bar counsel filed a four-count petition for discipline against the respondent, Steven L. Winniman, alleging, inter alia, that

(1) he intentionally misused Client A's funds with actual and continuing deprivation, and he failed to account for the funds, all in violation of Mass. R. Prof. C. 1.15(b), (c), and (d), and 8.4 (c) and (h);

(2) he failed to file timely a bankruptcy petition for Client A, as agreed, he misrepresented the status of the case to Client A, and he failed to account for and return the unearned portion of the retainer paid by Client A, all in violation of Mass. R. Prof. C. 1.1, 1.2(a), 1.3, 1.16(d), and 8.4(c);

(3) he failed to represent diligently Client A in a personal injury action, resulting in dismissal of the action for failure to provide discovery (having nothing to do with anything Client A did or failed to do), and he failed to keep Client A reasonably informed as to the status of the case, including the order for dismissal, all in violation of Mass. R. Prof. C. 1.2(a), 1.3, and 1.4; and

(4) he failed to cooperate with the investigation of bar counsel in three other grievances filed by other clients, in violation of Mass. R. Prof. C. 8.4(g) and (h), and S.J.C. Rule 4:01, § 3.

The respondent made two requests, both of which were granted, for additional time to file an answer to the petition for discipline. He did not file an answer, and the allegations in the petition were then deemed admitted. He was given twenty (20) days to move for relief from default for good cause. He did not file a motion for relief.

The respondent was notified that the matter would be heard on a specific date for final disposition and that he could file a memorandum on the issue of disposition. He failed to file a memorandum or otherwise contact the board. The Board of Bar Overseers (board) voted to recommend the respondent be disbarred from the practice of law. The board has filed an information recommending the disbarment of the respondent.

The respondent has filed a motion with the court requesting removal of the default and an order remanding the matter to the board for further proceedings. I decline to grant the requested relief. The answer that the respondent claims to have filed was dated ten (10) days after the expiration of the second extension within which he was to have filed his answer. The effects of the medical condition he claims impaired his ability to file a timely answer is not borne out by his physician's "note," and the affidavit of Jana Lauren Harris that addresses the respondent's medical condition describes his condition in March, 2008, well after the default. Her affidavit also raises the distinct possibility that the respondent's "answer" to the petition for discipline was not prepared on December 25, 2007, as the respondent contends, but in March, 2008. Moreover, after he was notified of the default and the dispositional hearing, the respondent did nothing. The respondent has a long history of failure to respond, evidenced by

his failure to cooperate with bar counsel's investigation, as well as the underlying grievances filed by his clients. I find that the respondent has failed to show excusable neglect, and he failed to act reasonably promptly after being notified of the default. The motion to remove default is denied.

The respondent is hereby disbarred forthwith from the practice of law.

FOOTNOTES:

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

Please direct all questions to webmaster@massbbo.org.

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