

## IN RE: ELLEN M. MACKAY

S.J.C. Judgment of Disbarment entered by Justice Gants on April 5, 2010.<sup>1</sup>

SUMMARY<sup>2</sup>

The respondent, Ellen M. MacKay, was admitted to the Bar of the Commonwealth on December 23, 1991. On October 3, 2007, she was administratively suspended from the practice of law pursuant to S.J.C. Rule 4:01, § 3(2), for her intentional failure without good cause to respond to requests for information made by the bar counsel in the course of processing a grievance.

On December 29, 2009, the respondent submitted an affidavit of resignation to the Board of Bar Overseers in which she acknowledged that the facts and rule violations contained in an accompanying statement of disciplinary charges could be proven by a preponderance of the evidence. The statement of disciplinary charges asserted that the respondent had commingled client funds with personal funds in her business account in violation of Mass. R. Prof. C. 1.15(b); converted client funds to pay her own personal and business expenses in violation of Mass. R. Prof. C. 1.15(c), and 8.4(c) and (h); failed to inform clients and third persons that she had received funds on their behalf in violation of Mass. R. Prof. C. 1.4 and 1.15(c); failed to keep an accurate, chronological check register, individual client ledgers, and to reconcile her IOLTA account at least every sixty days in violation of Mass. R. Prof. C. 1.15(f)(1)(B)-(E); issued IOLTA checks directly to herself in violation of Mass. R. Prof. C. 1.15(e)(3); and paid business and personal obligations directly from her IOLTA account in violation of Mass. R. Prof. C. 1.15(e)(4). The respondent also failed without good cause to respond to requests for information from bar counsel made in the course of processing a complaint in violation of S.J.C. Rule 4:01, § 3(2) and Mass. R. Prof. C. 8.1(b) and 8.4(g); and failed to comply with the requirements of an order of administrative suspension in violation of Mass. R. Prof. C. 3.4(c) and 8.4(h).

On February 5, 2010, the respondent asked the Board to accept her resignation and recommend to the Court that her name be removed from the rolls of the bar without imposing the sanction of disbarment, citing depression and financial problems as factors underlying her misconduct. Bar counsel opposed the respondent's request not to be disbarred because there was no evidence to support her claims or that her misconduct was causally related to her problems.

On February 8, 2010, the Board of Bar Overseers voted unanimously to recommend to the Supreme Judicial Court that the affidavit of resignation be accepted and that an order of disbarment be entered against the respondent. On March 15, 2010, the county court (Gants, J.) accepted the affidavit of resignation and entered a judgment of immediate disbarment.

FOOTNOTES:

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

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).