

IN RE: KAREN M. HARBECK

S.J.C. Judgment Accepting Affidavit of Resignation As A Disciplinary Sanction entered by Justice Cordy on October 30, 2007.¹

SUMMARY²

This matter came before the Court on the respondent's affidavit of resignation pursuant to S.J.C. Rule 4:01, § 15. The respondent admitted in her affidavit that the material facts described in bar counsel's amended petition for discipline were true, as follows.

On August 20, 2003, two elderly sisters executed general durable powers of attorney naming the respondent as attorney-in-fact. The respondent and the elderly sisters were neighbors and for approximately twenty years prior, they maintained a personal relationship. In August 2003, the sisters were in need of permanent care and became residents of an assisted living facility. At this time, the respondent took full control of their financial affairs. The bulk of the sisters' liquid assets was managed by the respondent through an individual trust account at Citizens Bank.

Between August 2003 and December 2005, the respondent devoted substantial time to the sisters' care. Most of the services that the respondent performed were non-legal services, such as paying bills, arranging for health and personal care, organizing the repair and cleaning of the sisters' home and moving and disposing of household items, so that the sisters' home would be marketable. The respondent represented the sisters in selling their home on March 30, 2005, and prior to the sale of the home, borrowing funds for the benefit of the sisters.

Between August 2003 and December 2005, the respondent transferred not less than \$140,800 from the trust account to two of her own personal accounts, claiming entitlement to fees. The fees were clearly excessive. The respondent did not keep contemporaneous records of her time and improperly charged the sisters the same rate for non-legal and legal services. Much of the respondent's services were non-legal services.

In January 2006, one of the sisters retained counsel. On January 25, 2006, and on multiple occasions thereafter, counsel requested an accounting from the respondent and all bank records. On or about February 15, 2006, the respondent sent to counsel what purported to be accountings for calendar years 2003 and 2004. The accountings, however, were generally inadequate and did not include the requested bank records or any periodic billings or invoices to the sisters.

On May 23, 2006, counsel filed a complaint with bar counsel complaining in part that the respondent's accountings lacked sufficient detail to be meaningful and that the respondent had charged an excessive fee. On June 7, 2006, bar counsel requested the respondent to provide a meaningful accounting of the client trust funds that she administered. The respondent provided records to bar counsel but the records were disorganized, not detailed and inadequate.

The respondent's conduct in charging for non-legal work at legal rates and her conduct of charging an excessive fee for her non-legal and legal services violated Mass. R. Prof. C. 1.5(a). The respondent's failure to maintain complete records of her receipt, maintenance and

disposition of trust property violated Mass. R. Prof. C. 1.15(f) and, for conduct prior to July 1, 2004, Mass. R. Prof. C. 1.15(a). The respondent's failure to render a full and meaningful account to her client upon written and oral requests violated Mass. R. Prof. C. 1.15(d)(1), and for conduct prior to July 1, 2004, Mass. R. Prof. C. 1.15(b).

The respondent had a disciplinary history. On November 6, 2006, she received a public reprimand (PR 2006-17, 22 Mass. Att'y Disc. R. 378), for lack of diligence and failure to communicate. She also received an admonition in three cases (AD 01-60, 17 Mass. Att'y Disc. R. 775), for charging excessive fees, conduct prejudicial to administrative justice and conduct adversely reflecting on fitness to practice.

On October 15, 2007, the Board voted to recommend that the affidavit of resignation be accepted as a disciplinary sanction. On October 30, 2007, the Supreme Judicial Court for Suffolk County so ordered.

FOOTNOTES:

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 Supreme Judicial Court.

Please direct all questions to webmaster@massbbo.org.
© 2005. Board of Bar Overseers. Office of Bar Counsel. All rights reserved.