

IN RE: MARGARET T. CONNOLLY

S.J.C. Judgment of Disbarment entered by Justice Botsford on November 16, 2007.¹

SUMMARY²

In June 2003, the respondent agreed to probate an estate and to petition the probate court to have one of the estate's beneficiaries appointed the executrix of the estate. The probate estate consisted exclusively of personal property held by banks and financial institutions valued at no less than \$750,000. The respondent failed to file the decedent's will with the probate court or take any other action to probate the estate or to have the beneficiary appointed the executrix of the estate.

In 2004, after moving to California, the beneficiary left telephone messages with the respondent requesting information regarding the probate of the estate and her appointment as executrix. The respondent did not return the telephone calls.

In late 2004, while on vacation in Massachusetts, the beneficiary went to the probate court to determine the status of the probate of the decedent's estate. The beneficiary discovered that there were no documents on file with the court regarding the estate. In a subsequent telephone conversation, the respondent intentionally misrepresented to the beneficiary that the respondent had filed the necessary papers with the probate court, but that the court lost the file. The respondent intentionally misrepresented to the beneficiary that the respondent would get the matter moving along.

Sometime in December 2004, the respondent altered a probate court decree from another estate to show that the respondent, not the beneficiary, had been appointed executrix of the decedent's estate. The altered probate court decree had the signature of a probate court judge who had died in 2002 and contained the certificate of a registrar of probate whose term had expired in 1997. The certification on the fabricated decree falsely represented that the decree "was a photographic copy of the decree of appointment of fiduciary; that said fiduciary has given bond as required by the law and that said appointment remains in full force."

On January 12, 2005, the respondent opened up an interest-bearing account in the name of the estate. The respondent was the sole signatory on the account. In order to open the account, the respondent provided the bank with the false decree that she had prepared.

By January 25, 2005, the respondent had obtained no less than \$295,000 of the estate's funds by sending the false probate court decree to banks and financial institutions holding funds belonging to the estate. The respondent deposited these funds into the estate account. Between January 31, 2005 and June 28, 2005, the respondent withdrew no less than \$84,000 of the estate's funds, commingled the funds with her own funds, and converted the funds to her own use. The respondent misused these funds with the intent to deprive the estate and its beneficiaries of the funds at least temporarily, and with actual deprivation occurring. The respondent disbursed the balance of the funds to the estate's beneficiaries.

Throughout 2005, the estate's beneficiaries demanded that the respondent make the remaining distributions from the estate. The respondent made a few distributions in response

to these requests but failed to disburse the funds she had converted.

In July 2005, the respondent deposited \$355,000 of her own money into the estate account. Between July and October 2005, the respondent used all of the funds in the account to make additional distributions of about \$390,000 to the beneficiaries.

In October 2005, the beneficiary retained new counsel to look into the purported probate of the decedent's estate. Counsel went to the probate court and discovered that there were no documents on file with the court relative to the decedent's estate. In November 2005, counsel wrote to the respondent that she was now representing the beneficiary and requested that the respondent provide counsel with the respondent's file for the matter. The respondent complied with counsel's request.

On February 9, 2006, counsel filed the decedent's will with the probate court along with a petition requesting that the beneficiary be appointed executrix of the estate. On June 14, 2006, the beneficiary was appointed executrix of the decedent's estate.

The respondent's failure to file the decedent's will with the probate court as required by law violated Mass. R. Prof. C. 1.1 (lawyer shall provide competent representation to a client), 1.2(a) (lawyer shall seek the lawful objectives of her client), 1.3 (lawyer shall act with reasonable diligence and promptness in representing a client), and 8.4(d) (conduct prejudicial to the administration of justice).

The respondent's failure to institute administration of the estate and her failure to respond to the beneficiary's requests for information about the status of the probate of the estate violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3, and 1.4(a) and (b) (lawyer shall keep a client reasonably informed about the status of a matter, promptly comply with reasonable requests for information, and explain a matter to a client to the extent necessary to permit the client to make reasonable decisions).

The respondent's false representations to the beneficiary that the respondent had filed the papers to probate the decedent's estate with the probate court and that the court had lost the file violated Mass. R. Prof. C. 8.4 (c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

The respondent's fabrication of the false probate decree nominating the respondent as the executrix of the decedent's estate violated Mass. R. Prof. 8.4 (c) and (d).

The respondent's commingling the estate's funds with her own funds, her conversion of the estate's funds to her own use, and her failure promptly to turn over the funds to the estate's beneficiaries violated Mass. R. Prof. C. 1.15 (b) and (c) (lawyer shall hold trust property separate from the lawyer's own property and shall promptly notify and deliver funds that a client or a third person is entitled to receive), and 8.4 (c).

The respondent's obtaining the estate's funds by false pretenses and her opening up the estate account by using the false probate court decree violated Mass. R. Prof. C. 4.1(a) (lawyer shall not knowingly make a false statement of material fact of law to a third person), and 8.4 (c) and (d).

On October 24, 2007, the respondent submitted to the Supreme Judicial Court for Suffolk County a consent to disbarment pursuant to S.J.C. Rule 4:01, § 8(5). On November 16, 2007, the Supreme Judicial Court for Suffolk County entered an order of disbarment effective immediately on the date of the entry of the Court's order.

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.

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