

IN RE: JOHN D. ROBERTS, JR.

S.J.C. Judgment of Disbarment entered by Justice Ireland on December 29, 2008.¹

SUMMARY²

The respondent was disbarred for misconduct set forth in a two-count petition for discipline. In Count One, the respondent intentionally converted trust funds to his own use and failed to make restitution. In Count Two, the respondent failed to cooperate with bar counsel's investigation.

In 1992, a client established a family trust (trust) as donor and trustee and named the respondent as successor trustee. Upon the client's death on February 1, 2007, the trust became irrevocable, and the respondent became successor Trustee.

From late March 2007 to late August 2007, the respondent transferred \$137,900 in funds belonging to the trust from the trust's account into his IOLTA account. During the same period, the respondent transferred the trust's funds out of his IOLTA account and into his personal account at the same bank via online transfers, thereby commingling the trust's funds with his personal funds.

The respondent intentionally expended the trust's funds from his personal account for his own personal or business purposes. The respondent intended by this conduct to deprive the trust of its funds at least temporarily and actual deprivation resulted.

The respondent's commingling and intentional misappropriation of client funds, with intent to deprive the client of the funds at least temporarily and with actual deprivation resulting, is conduct in violation of Mass. R. Prof. C. 1.15(b) and 8.4(c) and (h).

In October 2007, bar counsel received an overdraft report from the bank at which the respondent maintained his IOLTA account concerning that account. Bar counsel sent a copy of the overdraft report and a letter to the respondent requesting his response to the overdraft report within twenty days. The respondent received this letter in due course and knowingly failed without good cause to respond.

In October 2007, bar counsel also received a grievance concerning the misappropriation of the trust's funds. The grievance was filed by an attorney on behalf of one of the beneficiaries of the trust. Bar counsel sent a copy of this grievance and a letter to the respondent requesting his response to the grievance within 20 days. The respondent received this letter in due course and knowingly failed without good cause to respond.

The respondent failed to respond to bar counsel's repeated requests for information concerning the overdraft report and the alleged misappropriation. On December 17, 2007, the Supreme Judicial Court for Suffolk County entered an order of immediate administrative suspension of the respondent due to the respondent's failure to cooperate with bar counsel's investigation. The respondent did not comply with the Court's order.

The respondent's conduct in knowingly failing without good cause to cooperate with bar counsel's investigation was in violation of Mass. R. Prof. C. 8.1(b), 8.4(d), (g), and (h), and S.J.C. Rule 4:01, § 3.

Bar counsel filed a petition for discipline against the respondent on April 16, 2008. In aggravation, the respondent failed to file an answer to the petition. By letter dated May 9, 2008, the Board of Bar Overseers notified the respondent that the allegations in the petition were deemed admitted and that he had waived his right to be heard in mitigation.

On December 8, 2008, the board voted to recommend to the Supreme Judicial Court that the respondent be disbarred. The Court so ordered on December 29, 2008.

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 filed with the Supreme Judicial Court.

Please direct all questions to webmaster@massbbo.org.

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