

IN RE: JOYCE RICHARD

S.J.C. Order of Term Suspension entered by Justice Gants on October 29, 2009, with an effective date of November 30, 2009.¹

SUMMARY²

The respondent was admitted to the Bar of the Commonwealth on December 18, 1985. In 1992, the respondent was named executrix of an estate and the trustee of a pour-over trust, which named 61 beneficiaries, including the respondent. The trust instrument granted the trustee unlimited discretion to deal with trust property as she deemed satisfactory, without the need of license or approval from a court. The trust required the trustee to render periodic accounts to the trust beneficiaries.

The respondent did not promptly marshal all estate assets or distribute all trust property. She also did not provide trust accountings to the beneficiaries between early 2000 and 2008. By failing to render periodic accounts after 2000 and promptly to make full distribution of trust assets to the beneficiaries, the respondent violated Mass. R. Prof. C. 1.1, 1.3, and 8.4(h).

On August 22, 2000, the respondent loaned her sister \$100,000 of trust assets. The respondent's sister gave the trust a balloon note carrying a below-market interest rate of 3% and a mortgage on the property to secure the loan. The loan to the respondent's sister violated the respondent's fiduciary obligations as trustee.

The note required the loan to be paid in full within forty-eight months. The respondent's sister still owed \$65,000 by the end of the term of the note. She did not repay the entire balance due on the loan until October 2, 2007.

The respondent's conduct in lending \$100,000 from the trust to her sister at below market rate and in not taking sufficient steps to collect the balance due on the note from her sister after four years violated Mass. R. Prof. C. 1.1, 1.3, 1.7(b), 1.15(b)(1), and 8.4(h).

In March 2007, a beneficiary of the trust filed a request for investigation with the Office of Bar Counsel alleging that the respondent had unreasonably delayed winding up the estate and making final distributions. Bar counsel asked the respondent to produce bank statements for the trust from 2000 to 2007. The respondent produced for bar counsel bank statements that she had altered by inflating the balances shown on the statements and deleting entries showing the trust's \$100,000 loan to her sister and the partial repayments of the loan. By intentionally altering trust account bank statements and submitting them to bar counsel, the respondent violated Mass. R. Prof. C. 3.4(b), 8.1(a) and 8.4(c), (g), and (h).

Before bar counsel discovered the alterations, the respondent informed bar counsel that she had provided altered bank statements. She subsequently provided the accurate bank statements to bar counsel. In 2008, the respondent made final distribution of trust assets and filed a first and final account for the estate, which was approved by the court. The beneficiaries received the full amounts due them.

In mitigation of the respondent's failure to complete the collection and distribution of trust assets, the respondent served as the primary caregiver for a period of about one and a half

years for a close friend who died in 2003. In addition, the respondent was seriously injured in an accident in 2004 and required four surgeries during the following two years. The respondent was also in treatment for depression.

This matter came before the Board of Bar Overseers on a stipulation of facts and rule violations and a joint recommendation for a one-year-and-one-day suspension from the practice of law. On October 19, 2009, the board voted to accept the stipulation and recommend the agreed-upon disposition to the Supreme Judicial Court for Suffolk County. On October 29, 2009, the county court (Gants, J.) entered an order suspending the respondent for one year and one day, effective November 29, 2009.

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.