

IN RE: ROBERT M. LINNEHAN, JR.

S.J.C. Order of Term Suspension entered by Justice Cowin on January 4, 2010.¹

SUMMARY²

The respondent was suspended for eighteen months for misconduct set forth in a three-count petition for discipline.

Count One of the petition for discipline arose after the Supreme Judicial Court entered an order on April 27, 2009, immediately suspending the respondent from the practice of law based on his failure to file his annual registration statement and pay annual fees to the Board of Bar Overseers in accordance with the provisions of S.J.C. Rules 4:02(1) and 4:03(1).³

The judgment required the respondent to cease practicing law as of April 27, 2009, and to comply with the provisions of S.J.C. Rules 4:02 and 4:03. In addition, because he did not take steps to be reinstated within thirty days after entry of the suspension order, he also became subject to the provisions of Rule 4:01, Section (17) which required him to file notices of withdrawal with every court, provide notice to all clients and all counsel for all parties, and submit an affidavit to bar counsel certifying full compliance with the provisions of the judgment and with bar disciplinary rules.

The respondent did not take any of these steps. In fact, he continued to practice law throughout the month of May 2009, appearing in several different courts and conferring with multiple clients and parties without advising the clients, courts, or parties of his administrative suspension.

The respondent's continuing to practice law while under administrative suspension and his failure to comply with the Judgment of immediate administrative suspension was in violation of Mass. R. Prof. C. 3.4(c), 5.5(a), and 8.4 (d) and (h) and S.J.C. Rules 4:01, § 17, and 4:03(3).

In Count Two, on June 4, 2009, the respondent sought reinstatement and to that end submitted an "Affidavit in Support of Request for Reinstatement" to the Board of Bar Overseers. In paragraph 3 of his affidavit, the respondent falsely stated under oath that he had not engaged in the practice of law in this Commonwealth since the effective date of his suspension.

On June 15, 2009, the Board of Bar Overseers submitted the respondent's affidavit to the Supreme Judicial Court and advised the Court that the Board had no objection to the respondent's reinstatement. However, shortly after June 15, 2009, bar counsel learned that on May 26, 2009, the respondent had filed his appearance in a matter and appeared before the Lynn District Court while under administrative suspension. As a result of that information, bar counsel opposed the respondent's reinstatement. On June 26, 2009, the Court denied the respondent's request for reinstatement, continued his administrative suspension, and referred the matter to the Board of Bar Overseers for further investigation.

The respondent's false statement under oath to the Board of Bar Overseers that he had not engaged in the practice of law while under administrative suspension was in violation of Mass.

R. Prof. C. 3.3(a) and 8.4(c), (d), and (h).

In Count Three, a client retained the respondent in late 2007 to represent him in two civil forfeiture cases. The client and the respondent agreed to a flat fee of \$500 per case with the total fee of \$1,000 to be paid out of whichever case settled first. On January 15, 2008, the respondent filed his appearance in both matters. He was able to settle one matter in early 2008, and he obtained a check from the Commonwealth in the amount of \$3,132. The respondent cashed the check, kept \$1,000 in cash as his fee, and distributed the rest of the cash as the client had instructed. The respondent did not deposit the \$3,132 in settlement proceeds into his IOLTA account or in any other client trust account, and he did not maintain any records of the receipt, maintenance, and disposition of the \$3,132.

The respondent's failure to deposit the settlement proceeds into a client trust account, his taking his fee in cash, and his failure to maintain any records of the receipt, maintenance, and disposition of the client's funds was in violation of Mass. R. Prof. C. 1.15(b)(1), (e)(4), and (f).

The matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and a joint recommendation that the respondent be suspended from the practice of law for eighteen months. On November 9, 2009, the board voted to recommend that the Supreme Judicial Court accept the parties' stipulation and joint recommendation for discipline. The Court so ordered on January 4, 2010.

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.

³ The respondent had been administratively suspended for the same reason on three occasions in 2003, 2004, and 2006.

Please direct all questions to webmaster@massbbo.org.