

IN RE: RAYMOND J. PACZKOWSKI

S.J.C. Judgment of Disbarment entered by Justice Botsford on November 24, 2010.<sup>1</sup>

SUMMARY<sup>2</sup>

This matter came before the Supreme Judicial Court for Suffolk County on an affidavit of resignation submitted by the respondent and a recommendation of the Board of Bar Overseers that the affidavit of resignation be accepted and a judgment of disbarment be entered. In the affidavit of resignation, the respondent admitted that bar counsel could prove by a preponderance of the evidence that he had converted client funds between January 1, 2009 and October 20, 2010. In addition, he admitted that bar counsel could prove by a preponderance of the evidence the following facts.

The respondent represented a lender in June 2010 in a refinancing. The respondent was required to use \$109,953.63 of the proceeds to pay off the first mortgage on the property. The respondent did not pay off the outstanding mortgage and converted these funds.

In July 2010, the property owner received a mortgage statement and payment-due notice for the first mortgage. The property owner called the respondent several times to find out why he had received a mortgage statement and notice. When the respondent finally returned the call, the respondent intentionally misrepresented that the first mortgage had been paid and stated that he would call the mortgage company to straighten out the problem. The respondent continued to make similar misrepresentations to the property owner when he called about additional notices from the mortgagee. The respondent did not admit to the property owner that he had misused the funds until October 2010.

From and after January 1, 2009, the respondent failed to keep records of funds for his IOLTA account as required by Mass. R. Prof. C. 1.15. Among other things, the respondent did not keep a chronological check register showing each deposit and disbursement with client identifiers and with a calculation of the balance after each transaction, he did not maintain records of deposits with client identifiers, he did not maintain a ledger for each individual client matter, he did not keep a ledger of his personal funds in the account, and he did not reconcile the account at least every sixty days. In addition, the respondent deposited personal funds into his IOLTA account, left earned fees in the account, wrote checks directly to his creditors, and withdrew funds by checks payable to cash.

Bar counsel commenced an investigation of the respondent's conduct. The respondent failed without good cause to provide records requested by bar counsel and was administratively suspended on October 12, 2010, for failing to cooperate with bar counsel's investigation.

The respondent's conduct in converting trust funds violated Mass. R. Prof. C. 8.4(c) and (h). The respondent's conduct in not maintaining trust funds in a trust account violated Mass. R. Prof. C. 1.15(b)(1). The respondent's conduct in issuing checks directly to his creditors violated Mass. R. Prof. C. 1.15(b)(1) and (2) and (e)(4). The respondent's conduct in withdrawing funds from his IOLTA account via checks payable to cash violated Mass. R. Prof. C. 1.15(e)(3). The respondent's conduct in failing to pay all liens on the property and failing to promptly deliver mortgage proceeds to the first mortgagee violated Mass. R. Prof. C. 1.1, 1.2(a), and 1.15(c). The respondent's conduct in making distributions from his IOLTA account

that created a negative balance on behalf of a client violated Mass. R. Prof. C. 1.15(f)(1)(C). By intentionally failing without good cause to cooperate with bar counsel's investigation, the respondent violated Mass. R. Prof. C. 8.1(b) and 8.4(g). Finally, the respondent's conduct in failing to keep a chronological check register showing all transactions in the IOLTA account with client identifiers, failing to keep an individual ledger for each client matter, failing to keep a ledger of his personal funds, failing to prepare reconciliation reports, and failing to keep deposit records with client identifiers violated Mass. R. Prof. C. 1.15(f)(1)(B), (C), (D), (E), (F)(ii) and (iii).

On October 29, 2010, the respondent submitted an affidavit of resignation pursuant to S.J.C. Rule 4:01, § 15. Bar counsel recommended that the affidavit of resignation be accepted and a judgment of disbarment be entered effective immediately.

On November 15, 2010, the Board of Bar Overseers voted to adopt bar counsel's recommendation. The board forwarded the affidavit of resignation and the vote of the board to the Supreme Judicial Court for Suffolk County.

On November 19, 2010, the county court entered a judgment accepting the affidavit of resignation and disbarring the respondent from the practice of law effective immediately.

#### FOOTNOTES:

<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> 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](mailto:webmaster@massbbo.org).