

**IN RE: GREGORY JOHN CURCIO**

**NO. BD-2011-046**

**S.J.C. Judgment of Disbarment entered by Justice Gants on January 30, 2012.<sup>1</sup>**

**SUMMARY<sup>2</sup>**

On May 17, 2011, the Supreme Judicial Court ordered the respondent, Gregory John Curcio, temporarily suspended from the practice of law for failure to cooperate pursuant to S.J.C. Rule 4:01, § 3(2). On January 30, 2012, the respondent was disbarred for misrepresentations to the client, misappropriation of client's funds with permanent deprivation, failing to return unearned legal fees and failing to cooperate with bar counsel's investigation.

In September 2010, the respondent was retained to assist the client in filing an offer in compromise with the Internal Revenue Service (IRS). The client's estimated debt was \$185,000 in back taxes. The respondent charged the client a flat fee of \$10,000 plus expenses. The client wired the fee to the respondent's personal checking account in September 2010.

In October 2010, the respondent falsely represented to the client that he had negotiated a payment schedule with the IRS, and that an initial payment of \$58,900 was due immediately. The respondent directed the client to wire the first payment to his personal checking account. The client wired the funds to the respondent's personal checking account in October 2010.

From October through December 2010, the respondent knowingly misused the client's funds for his own purposes and never made a payment to the IRS on behalf of the client.

In December 2010, the respondent falsely represented to the client that he had been in negotiations with the IRS and that the IRS agreed to settle his account for a total of \$91,530. The respondent falsely represented to the client that the IRS agreed to accept an additional payment of \$32,630 to settle the client's tax debt. In December 2010, the client wired a partial payment for the IRS, \$15,000, to the respondent's checking account.

Thereafter, the respondent knowingly misused the client's funds for his own purposes and closed out his checking account in January 2011.

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<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.

In January 2011, the client requested that the respondent provide him with a copy of the settlement agreement with the IRS, as well as any proof of payment for his records. The respondent did not respond. The client's accountant then contacted the IRS and found no record of payments made by the respondent on the client's behalf. The client and his accountant contacted the respondent, who falsely claimed that the IRS was sluggish in producing receipts and final settlement agreements.

By email, the client and his accountant requested immediate proof of payment from the IRS or the immediate return of all funds wired to the respondent. The respondent failed to return the funds or provide proof of payment from the IRS.

Sometime in January 2011, the respondent moved without notifying the client and without providing a forwarding address. The client filed a request for investigation with the Office of Bar Counsel in February 2011. The Office of Bar Counsel served the respondent with the complaint at his last known address. The respondent did not reply to any of the requests for information. The respondent was served with a subpoena at his last known address. The respondent failed to appear before the Office of Bar Counsel in April 2011.

By falsely representing to his client that he had negotiated a settlement with the IRS, the respondent violated Mass. R. Prof. C. 8.4(c).

By depositing client funds into his personal checking account, the respondent violated Mass. R. Prof. C. 1.15(b).

By failing to respond to his client's telephone calls and emails regarding the status of his case and trust funds since January 27, 2011, the respondent failed to promptly reply to his client's reasonable requests for information, in violation of Mass. R. Prof. C. 1.4(a) and (b).

By intentionally using his client's trust funds for his own purposes, with intent to deprive the client of the funds at least temporarily and with actual deprivation resulting, the respondent violated Mass. R. Prof. C. 1.15(b) and (c), and Mass R. Prof. C. 8.4(a)-(d) and (h).

By failing to refund the unearned legal fees, the respondent violated Mass. R. Prof. C. 1.16(d).

By failing to cooperate with the Office of the Bar Counsel, the respondent is in violation of S.J.C. Rule 4:01, § 3, Mass. R. Prof. C. 8.1(b), and Mass. R. Prof. C. 8.4 (d) and (g).

In aggravation, the respondent was previously suspended for six-months for neglecting and harming clients, making misrepresentations to clients to conceal his neglect and for failing to cooperate with bar counsel's investigation. *Matter of Curcio*, 23 Mass. Att'y Disc. R. 92 (2007).

On August 19, 2011, bar counsel filed a petition for discipline charging the respondent with the above misconduct. The respondent defaulted and the allegations in the petition were deemed admitted.

On November 14, 2011, the full board voted unanimously to recommend that the respondent be disbarred. On January 30, 2012, the single justice issued an order of disbarment, effective immediately.