

IN RE: CHARLES F. PERRAULT

NO. BD-2013-087

S.J.C. Order of Term Suspension/Stayed entered by Justice Botsford on August 26, 2013.¹

SUMMARY²

The respondent was suspended for a period of three months, with the suspension stayed for a period of one year on probation or conditions, for the following misconduct.

In 1998, the respondent drafted and caused to be executed Raymond's will. At Raymond's request, the will nominated the respondent as the executor. Raymond died on March 30, 2008, survived by his brother and sister. His assets were a condominium unit with a value of about \$128,000.00, about \$40,000.00 in a bank account, some silver coins and other miscellaneous items of little value. The will left the condominium unit to a charity and the remainder of the estate to Raymond's brother. The administration of the estate did not present unusual complexity and should not have caused unusual time and expense.

In June 2008, the respondent assigned the project of assisting him as executor in probating the estate to an associate who had no experience in estate administration. Throughout the probate of the estate, the respondent failed to adequately supervise the associate.

On August 14, 2008, a petition was filed to probate Raymond's will and to appoint the respondent as executor. The respondent was appointed executor by an order dated November 25, 2008. In October, 2008, a notice of rights to interested persons was sent with delivery confirmation to the charity at one of its addresses, notifying it of the bequest of the condominium to it. The charity maintained that it did not receive the notice and did not respond. Between October 2008 and March 26, 2010, the respondent and his associate did not make any effort to call or write to the charity to find out why it had not responded. Because the real estate was not promptly deeded to the charity as per the terms of the will, the respondent and his associate spent an excessive amount of time dealing with issues related to the real estate,

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.

including without limitation, repairs, operating costs, and the collection of and accounting of rental income. The respondent did not adequately supervise his associate to assure the prompt disposition of the condominium to the charity.

The respondent and his associate further did not handle disposition of the silver coins diligently and efficiently. As a result, the estate was billed and paid more in legal fees for handling the disposition than was reasonable.

The respondent billed the estate a legal rate for all of the associate's services, including services that were administrative, routine or more appropriately handled by support staff or independent contractors. The respondent failed to review the detail of the bills to assure they were reasonable or consistent with the firm's policies.

The respondent billed an excessive amount of time for internal office conferences which, in part, were educational or instructional conferences for the associate to acquire the necessary learning in the law. The respondent failed to review the details of the bills to assure that the estate was not being unreasonably billed for the associate's obtaining learning in the law. Thus, the respondent billed and collected from the estate a clearly excessive fee.

On or about November 30, 2010, the charity filed papers with the Probate Court including a petition to render account and a petition for distribution of the real estate. The respondent filed objections. In response to the filings, the parties commenced negotiation of entitlement to and accounting of the rental income received from the condominium offset by the expenses reasonably incurred by the estate for maintenance, management, repairs, real estate taxes and other debits. On or about March 23, 2012, the matter was settled and on April 11, 2012, the parties agreed to an accounting and filed a stipulation as to distribution. On April 26, 2012, the stipulation was approved by the Probate Court.

On or about January 3, 2013, the respondent voluntarily reimbursed \$20,000.00 in legal fees to the estate, and his firm retained \$9,847.00 representing a reasonable fee for administering the estate. The respondent's retention of this fee has been assented to in writing by the heir and the charity. The estate has been finalized and distributions made.

The respondent's failure to put in place reasonable measures to assure that his associate's conduct was compatible with her professional obligations, and his failure to adequately supervise the associate, violated Mass. R. Prof. C. 5.1(a) and (b). The respondent's conduct of charging and collecting a clearly excessive fee, is in violated Mass. R. Prof. C. 1.5(a).

In aggravation, the respondent received a public reprimand on June 21, 2007, for representing in 2001 two sisters in the execution of deeds where their interests conflicted with the interests of a client, in violation of Mass. R. Prof. C. 1.7(a) and (b), and other related misconduct.

This matter came before the board on a stipulation of facts and disciplinary violations and a joint recommendation for a three-month suspension with the execution of the suspension stayed for a period of one year on the condition that the respondent attend a continuing legal education course on law office management designated by bar counsel. On July 25, 2013, the Board of Bar Overseers accepted the parties' recommendation and filed an Information with the Court. On August 27, 2013, the Court suspended the respondent for three months, with the execution of the suspension stayed for one year on the foregoing conditions, effective as of the date of the Order.