

IN RE: DENIS T. TEAGUE

NO. BD-2014-061

S.J.C. Judgment Accepting Affidavit of Resignation As A Disciplinary Sanction entered by Justice Botsford on September 15, 2014, with an effective date of October 15, 2014.¹

SUMMARY²

The respondent handled the legal and financial affairs of an aged client as her attorney in fact under a durable power of attorney and as trustee of a trust established for her benefit. The respondent received \$350,000 in trust for the client, representing the bulk of her liquid assets. He should have invested and managed those funds conservatively and kept them available for the client's needs. The respondent instead investigated possible investments in speculative real estate ventures, none of which came to fruition, and paid himself \$20,000 from the client's funds for doing so. The respondent's services in investigating the potential investments were of little or no value to the client, and his fees for those services were clearly excessive. The respondent did not give the client a written accounting or otherwise inform her of his fees or fee payment before or at the time of the payment.

In addition, the respondent had a social and professional relationship with one of the client's relatives and had represented that relative in acquiring real estate with mortgage financing. Without first informing the client, the respondent made loans totaling \$320,000 from the client's trust to the relative secured by thirty-year mortgages at lower rates than the relative's existing mortgages. It was imprudent and irresponsible to tie up the bulk of the client's funds in these mortgage loans. The respondent's effectuation of those loans inured to the advantage of the relative and the disadvantage of the client. The respondent never informed the client of the conflicts arising from his competing obligations and relationship to the relative, and he did not obtain the client's consent after consultation to the transactions.

It was alleged in aggravation that the respondent had substantial experience in the practice of law at the time of the conduct in issue, that the client was in a vulnerable position due to her extreme age and frail condition, and that the client sustained substantial detriment. The respondent returned the entire \$20,000 fee about four months after taking the payment.

In May 2014, the respondent submitted an affidavit of resignation as a disciplinary sanction to the Board of Bar Overseers under S.J.C. Rule 4:01, § 15. The respondent acknowledged in his affidavit that there was a pending investigation into allegations of misconduct; that the material facts on which the allegations were based and the allegations in aggravation could be proved by a preponderance of the evidence; and that a hearing committee, the board and the Court would conclude

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.

that he had engaged in violation of Mass. R. Prof. C. 1.1, 1.2(a), 1.3, 1.4(a) and (6), 1.5(a), 1.7(b) and 1.15(d)(2). The respondent agreed not to contest the alleged facts and rule violations in any bar discipline or reinstatement proceeding.

The board voted in June 2014 to recommend the respondent's resignation as a disciplinary sanction. On September 15, 2014, the Court entered a judgment accepting the affidavit of resignation as a disciplinary sanction effective in thirty days.