

**IN RE: JULIE COURT MOLLOY**

**NO. BD-2015-008**

**S.J.C. Order of Term Suspension entered by Justice Botsford on February 24, 2015.<sup>1</sup>**

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

This matter came before the Supreme Judicial Court for Suffolk County on a stipulation of the parties and a recommendation of the Board of Bar Overseers that the stipulation be accepted. In the stipulation the respondent admitted to the following facts.

The respondent, Julie C. Molloy, Esq., was duly admitted to practice in the Commonwealth of Massachusetts on December 19, 1989.

In the first matter, in August 2009, the respondent undertook to represent a client for personal injuries sustained in an automobile accident on a contingent-fee basis. Per the agreement, the client was to pay costs and expenses.

The respondent filed a complaint on behalf of the client against the other driver in August 2010 in superior court. In November 2011, the respondent contacted an accident reconstruction specialist regarding the client's matter. The expert requested a \$1,000 retainer. The respondent falsely represented to the client that the expert required a \$2,000 retainer and requested that the client pay her \$2,000 to retain the expert's services. By check dated December 1, 2011, the client paid the respondent \$2,000 for the expert's retainer, and the respondent deposited the retainer in her IOLTA account. On December 2, 2011, the respondent forwarded \$1,000 to the expert and by December 16, the respondent intentionally misused \$1,000 of the client's funds for her own purposes unrelated to the client.

In February 2012, the expert met the respondent at the scene of the accident, and the expert examined, measured and photographed the scene. By February 14, 2012, the expert provided the respondent with a report containing favorable findings for the client and a bill for the outstanding balance of \$2,913.65. The respondent requested that the client pay her \$2,913.65 for the expert's charges. By check dated March 1, 2012, the client paid the respondent the \$2,913.65 for the expert's charges. The respondent deposited the client's check in her IOLTA account. Between February 2012 and September 2012, the expert sent the respondent monthly invoices. The respondent did not respond and did not pay the expert.

The client's trial was scheduled for December 17, 2012, but the respondent did not notify the expert of the trial date or request that he testify. The respondent falsely represented to the

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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.

client that the expert was unavailable to appear at the trial. On December 17<sup>th</sup> the trial was postponed for one day by the court.

Later that day, the client called the expert and asked him whether he was coming to the trial on the following day. The expert told the client that he had not been asked to testify at the trial. The expert informed the client that he was available and would testify if asked by the respondent even though he had not been paid the balance of his bill.

The client told the respondent about his conversation with the expert, but the respondent never asked the expert to testify and the client never received the benefit of the expert's services. After the trial, the jury returned a verdict for the defendant.

In November 2012, the expert filed a small claims action against the respondent. In February 2013, a hearing was held in the small claims matter filed by the expert against the respondent. The respondent did not appear, and the court issued a default judgment against the respondent for \$3,107.62. The respondent did not pay the judgment and the court issued a *capias*. The respondent was served with the *capias*. By agreement, the respondent and the expert executed a payment plan, and the court entered an order by which the respondent was to pay \$500 per month. In June 2013, the respondent's check to the expert was dishonored and she made no further payments. In August 2013, the respondent filed a suggestion of bankruptcy.

By knowingly falsely representing to the client that the expert required a \$2,000 retainer and by asking the client to send her \$2,000 for the retainer, the respondent violated Mass. R. Prof. C. 8.4(c).

By intentionally misusing \$1,000 of the client's funds for her own purposes, the respondent violated Mass. R. Prof. C. 1.15(c) and Mass. R. Prof. C. 8.4(c) and (h). By failing to call the expert as a witness for the client at trial, the respondent violated 1.1, 1.2(a), and 1.3.

By knowingly falsely representing to the client that the expert was unavailable to appear at his trial, the respondent violated Mass. R. Prof. C. 1.4(a) and (b), and 8.4(c).

By failing to comply with orders of the court in the expert's suit against her, which resulted in the entry of a default and necessitated the issuance of a *capias* warrant, the respondent violated Mass. R. Prof. C. 3.4(c).

By intentionally violating the court's order to pay the expert \$500 per month, the respondent violated Mass. R. Prof. C. 3.4(c) and Mass. R. Prof. C. 8.4(d) and (h).

In the second count, in May 2013, the respondent was retained to represent a client in her divorce. The client paid the respondent a \$3,500 retainer and signed a fee agreement.

On May 24, 2013, the respondent deposited the retainer check to her IOLTA account. By July 27, 2013, the respondent had intentionally misused the client's retainer for her personal or business purposes unrelated to the client's divorce matter. The respondent never provided the client with an itemized bill or other accounting showing the services rendered and did not

provide her with notice of the amount and date of withdrawal or a statement of the balance of the client's funds in the trust account after making withdrawals.

In January 2014, the respondent requested an additional \$500. The client requested an accounting of her retainer funds, but the respondent failed to provide any accounting. The respondent also agreed to file the client's complaint for divorce, but failed to do so. The client provided the additional \$500 retainer by check dated January 17, 2014. The respondent deposited the \$500 retainer check to her checking account, and intentionally misused the client's retainer for her personal purposes unrelated to the client's divorce matter.

The respondent performed little work of substance on the client's divorce case, and never filed her divorce papers as agreed.

By email to the respondent dated February 19, 2014, the client requested a written receipt for the \$500 check and an itemized statement of her time and an accounting of her retainer. The respondent failed to respond and to provide a receipt and an accounting. By letter dated February 27, 2014, the client discharged the respondent and requested an accounting and the unearned portion of her retainer funds. The respondent failed to provide an accounting or a refund.

By intentionally misusing the client's retainer for her own purposes, the respondent violated Mass. R. Prof. C. 1.15(c) and Mass. R. Prof. C. 8.4(c) and (h).

By depositing the \$500 retainer to her personal checking account and intentionally misusing the client's retainer for her own purposes, the respondent violated Mass. R. Prof. C. 1.15(b) and (c) and Mass. R. Prof. C. 8.4 (c) and (h).

By failing to provide the client with any written itemized bills or other accountings showing the services rendered on or before the dates on which withdrawals from the trust account were made, the respondent violated Mass. R. Prof. C. 1.15(d) (1) and (2).

By failing to provide the client with a full written accounting upon termination and by failing to refund the unearned portion of the retainer, the respondent violated Mass. R. Prof. C. 1.15(d) (1) and Mass. R. Prof. C. 1.16(d).

By failing to act with reasonable diligence and promptness in representing the client, the respondent violated Mass. R. Prof. C. 1.3.

In mitigation, the respondent has a history of depression and anxiety disorder during the relevant periods of time and for which she receives treatment. The respondent's depression and anxiety disorder impaired her judgment and contributed to her violations. In mitigation, the respondent has paid the client \$1,000 and the expert \$2,913.68.

In aggravation, the respondent has a history of prior discipline. In 2009, the respondent received an admonition for disclosing confidential information. See *Admonition No. 09-13*, 25 Mass. Att'y Disc. R. 676 (2009). In 2013, the respondent received a public reprimand for failure to properly maintain her IOLTA account. See *Matter of Molloy*, 29 Mass. Att'y Disc. R. \_\_\_ (2013).

On January 12, 2015, the Board of Bar Overseers voted to accept the parties' stipulation and recommendation for discipline. The matter came before the Supreme Judicial Court for Suffolk County, and on February 24, 2015, the county court, Botsford, J., entered an order suspending the respondent for a year and a day.

