IN RE: SYBIL HELENA BARRETT

NO. BD-2015-104

S.J.C. Order of Term Suspension entered by Justice Lenk on October 22, 2018, with an effective date of November 21, 2018.[1]

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[1] The complete order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO. BD-2015-104

IN RE: SYBIL HELENA BARRETT

MEMORANDUM OF DECISION

This matter came before me on bar counsel's petition for reciprocal discipline, pursuant to S.J.C. Rule 4:01, § 16, and a certified copy of a disciplinary order from the North Caroline State Bar disbarring the respondent from the practice of law in North Carolina, after she was defaulted for nonappearance at a scheduled disciplinary hearing. The respondent filed an opposition asserting that she had not had notice of the hearing in North Carolina until she received notice of the petition for reciprocal discipline in Massachusetts.

1. Background. After the respondent was disbarred in North Carolina, bar counsel began proceedings for reciprocal discipline in Massachusetts. When this court ordered the respondent to respond why similar discipline should not be

imposed in Massachusetts, the respondent filed an affidavit stating that she had not had notice of the proceeding in North Carolina (where she had not practiced law since 2010), and that she first received such notice from Massachusetts bar counsel. After a hearing before me, I allowed the respondent a limited time in which to file a motion to reopen the proceedings in North Carolina, due to lack of notice. She did so, and her motion was denied almost immediately thereafter, without a hearing, on the ground that the motion was not timely.

Upon the respondent's filing of the order from the North Caroline Disciplinary Hearing Commission (DHC), I conducted another hearing, at which bar counsel pointed to information she had from a North Carolina attorney who had been involved in attempting to serve notice on the respondent with regard to the North Carolina disciplinary proceeding. Because there were disputed questions of fact, among other things, as to whether the respondent had had actual or constructive notice of the proceeding before the DHC, I remanded the matter to the Board of Bar Overseers (board) for an evidentiary hearing on the question of notice and the respondent's asserted errors of fact in the North Carolina decision. The board appointed a special hearing officer to preside over the hearing. After conducting two days of evidentiary hearings, the special hearing officer issued a

detailed report. He found that the respondent had had constructive notice of the proceedings against her by publication of notice in a North Carolina newspaper. Based on his view of what the respondent's former counsel likely would have told her, the hearing officer found also that the respondent had had actual notice of the proceedings in North Carolina.

The hearing officer concluded that "reciprocal discipline in Massachusetts is warranted, but not disbarment." He provided two very different recommendations. The first was dependent on the evidence before the North Carolina DHC, and the second was based on additional evidence presented at the Massachusetts hearing that had not been before the North Caroline DHC. The hearing officer recommended that, based on the evidence that had been before the DHC, the respondent should be suspended from the practice of law in the Commonwealth for one year and one day. He stated also that, if other evidence introduced at the Massachusetts hearing, that had not been used in the North Carolina proceeding, were considered, he would recommend a sanction of indefinite suspension from the practice of law in Massachusetts. The board adopted the hearing officer's findings and conclusions, without making a specific recommendation as to the appropriate sanction.

Having carefully considered the hearing officer's report and the evidence that was before him, I conclude that the respondent did not receive adequate constructive notice under the North Carolina Rules of Civil Procedure. Moreover, as discussed below, the finding that the respondent had actual notice is not supported by the evidence. See Matter of Segal, 430 Mass. 358, 364 (1999); S.J.C. Rule 4:01, § 8(4) (subsidiary findings shall be upheld if supported by substantial evidence). Speculation by one of the witnesses at the hearing[1] about what the respondent's former counsel in the 2010 disciplinary proceeding likely would have done is not sufficient to establish that she indeed did take any actions to notify her former client of the disciplinary complaint, or that she had any contact whatsoever with the respondent.

Nonetheless, at a hearing before me, and at the hearing before the special hearing officer, the respondent stated that she had been negligent in the use of funds provided by the third-party sellers at the closings in two different real estate transactions, and that some discipline was appropriate for that misconduct. Although the respondent ultimately did pay the taxes due, or provided the funds to the buyers to do so, she

[1] The North Carolina State Bar deputy counsel who prosecuted the 2010 disciplinary action against the respondent, and who was not the State Bar representative in the present action, testified at the hearing in Massachusetts.

agreed that the negligent, and substantial, delay in payment should be sanctioned. I agree with the special hearing officer and the board that the appropriate sanction for the misconduct that the respondent concedes she did engage in is a suspension from the practice of law in the Commonwealth for one year and one day. At a hearing before me after the special hearing officer submitted his report, bar counsel also agreed that a suspension of one year and one day would be appropriate for the negligent misuse of funds to which the respondent concedes, and that the hearing officer found had been established by the evidence before the North Carolina DHC. Accordingly, an order shall enter suspending the respondent from the practice of law in the Commonwealth for one year and one day, with conditions on reinstatement.

2. Prior proceedings. The respondent was admitted to the practice of law in Massachusetts in 2001, and to the practice of law in North Carolina in 2003. She served as a law clerk in Massachusetts but thereafter practiced in North Carolina. She was a solo practitioner, and much of her business was in real estate matters.

a. Disciplinary proceeding in North Carolina. The 2013 disciplinary complaint in North Carolina[2] alleged that the respondent had misused funds that had been paid at two real estate closings, in 2008 and 2009, that were intended to pay the sellers' real estate taxes, and had appropriated the funds for her own use. The complaint stated also that the respondent had made 125 transfers from her IOLTA account to her general operating account without client attribution or a statement of the balance that then remained in the account.

The docket of the hearing before the North Carolina DHC indicates that the respondent did not answer the complaint and did not appear at the hearing in October, 2014. The commission met for one hour to consider the case against her. No evidence was taken and no transcript was made. At the end of the proceeding, the respondent was defaulted and an order of disbarment issued. Bar counsel thereafter sought reciprocal discipline in Massachusetts.

b. Hearings before single justice in Massachusetts. After a hearing before me on August 4, 2016, I issued the first interim order in the Massachusetts proceeding for reciprocal

[2] There is concurrent jurisdiction over attorney disciplinary proceedings in North Carolina. Such proceedings may take place before a North Carolina Disciplinary Hearing Commission, which is composed of attorneys from the State Bar, or may proceed in the North Carolina Superior Court.

discipline. That order provided the respondent with an opportunity to attempt to reopen the disciplinary proceeding in North Carolina that had culminated in her disbarment there in 2014. I did so because, in my view, there was a significant question, not adequately resolved on the record before me, as to whether the North Carolina disciplinary authority had provided the respondent with proper notice of the proceeding against her, and because the respondent also claimed that the North Carolina proceeding was premised on one or more mistakes of fact.[3] The North Carolina DHC summarily rejected her request to reopen the proceeding, on the ground that the request was untimely. It did not address on the merits the procedural and factual infirmities that the respondent alleged.

The record before me at that point, as to the issue of notice, consisted of the competing averments of the respondent and Attorney A. Root Edmonson of the North Carolina State Bar. Because the respondent did not appear at the North Carolina proceeding, the judgment of disbarment was issued by default and

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[3] In addition, I was made aware of a prior disciplinary proceeding, from 2010 to 2011, that had disbarred the respondent from the practice of law in North Carolina. That decision subsequently was overturned by the North Caroline Court of Appeals, on a number of grounds. The proceedings in the present case were begun shortly after the North Caroline Court of Appeals issued its decision; the present matter concerns conduct that occurred in the same timeframe as the misconduct alleged in the earlier North Carolina proceeding.

without a hearing. If the respondent's absence from the hearing was based on a failure of notice, reciprocal discipline would not be warranted. Moreover, the respondent also asserted an infirmity of proof at the North Carolina proceeding, and argued that, before the complaint that she had not paid the tax bills and had misappropriated the funds for her own benefit was filed, the North Carolina DHC was aware, through filings in the North Carolina Superior Court, that the respondent had paid the tax bills, but the Superior Court filings were not included in the complaint or made part of the record in the case.

Accordingly, the matter was remanded to the board, to conduct an evidentiary hearing and to answer four questions set forth in the order of remand. The order required the board to determine a) whether the respondent received proper notification of the disciplinary proceeding in North Carolina, through actual or constructive notice; b) whether her absence from the proceeding was as a result of a lack of notice and thus that she had not had a reasonable opportunity to be heard; c) whether the North Carolina DHC's decision was based on "patent mistakes of fact"; and d) whether imposing reciprocal discipline in Massachusetts would result in a grave injustice. The order also required the board to determine the appropriate burden of proof (preponderance of the evidence, in Massachusetts, or "clear and

cogent" evidence, in North Carolina), and required the respondent to file a statement setting forth "the relevant bases and material disputed facts on which she relies to oppose the imposition of reciprocal discipline." The order stated that the burden to establish any infirmity of proof or mistake of fact was the respondent's.

3. Proceedings on remand. Following the order of remand, a special hearing officer was appointed. He conducted an evidentiary hearing over two days in the spring of 2017, on the questions of notice and the alleged infirmity of the evidence before the North Caroline DHC. Three witnesses testified, including Edmonson, of the North Carolina State Bar, a staff member from the Massachusetts Board of Bar Overseers Registration Department,[4] and the respondent; close to seventy exhibits were admitted.

One of the respondent's primary challenges to the proof before the North Carolina DHC was that the commission knew, when the complaint that she had misappropriated the funds intended to pay the taxes was filed, that the taxes had been paid in full.

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[4] Edmonson is the attorney who conducted disciplinary proceedings against the respondent in 2010. Those proceedings resulted in her first disbarment from the North Carolina State Bar, and in the North Carolina Court of Appeal's decision overturning the disbarment, in an opinion that roundly condemned the conduct of those proceedings.

To support her claim, the respondent introduced copies of statements from the county tax collector showing that there were no taxes due. She also introduced a spreadsheet that had been prepared at some point during the earlier disciplinary proceeding, by an unknown investigator, for use in a related case in the North Carolina Superior Court.[5] The respondent attempted to introduce the exhibit for the limited purpose of establishing that the fact of the taxes having been paid was known to the disciplinary commission; bar counsel then sought to introduce the entire spreadsheet, for all purposes, and the respondent moved to withdraw it. She claimed that it had not been updated to reflect the numerous records that she had provided the North Carolina State Bar, pursuant to a court order of disclosure, and the records that had been subpoenaed from her bank, which would have refuted the allegation that she had not attributed transfers out of her IOLTA account to a particular client. The special hearing officer allowed the spreadsheet to be introduced for all purposes, and also allowed Edmonson to testify as to its contents.

4. Standard of review. In reviewing a petition for reciprocal discipline, "[t]he judgment of . . . disbarment shall

[5] That case involved e motion by the North Carolina State Bar for a preliminary injunction precluding the respondent from access to her IOLTA account.

be conclusive evidence of the misconduct unless . . . the respondent-lawyer establishes, or the court concludes, that the procedure in the other jurisdiction did not provide reasonable notice or opportunity to be heard or there was significant infirmity of proof establishing the misconduct. The court may impose the identical discipline unless . . . imposition of the same discipline would result in grave injustice . . .."). S.J.C. Rule 4:01, § 16(3). See Matter of Bailey, 439 Mass. 134, 136 (2003); Matter of Lebbos, 423 Mass. 753, 754-756 (1996).

Thus, a petition for reciprocal discipline is reviewed to the extent necessary in order to determine whether the proceeding in the other jurisdiction was sufficiently fair and reliable for purposes of S.J.C. Rule 4:01, § 16(3), to form the basis for reciprocal discipline in Massachusetts. See Matter of Lebbos, supra at 755-756 (describing deference to be given to decisions of other jurisdictions in reciprocal discipline cases, "[b]ut because the consequences for the attorney are grave and the responsibility of judgment is still ours, such deference does not automatically lead to reciprocity. . . . We consider whether the proceedings accord with our notions of fairness and whether the grounds for the discipline correspond to our own criteria of attorney probity. . . . The factual aspect of our inquiry, however, is generally limited to determining whether

the attorney received a fair hearing at which sufficient evidence was presented to justify our taking reciprocal disciplinary action").

5. Constructive notice. As the respondent argues, Rule 4(j1) of the North Carolina Rules of Civil Procedure requires publication of notice in the county in which the disciplinary case is pending, if there is no reliable information about where a respondent is living. Publication is appropriate where the attorney prosecuting the case has made reasonably diligent efforts to serve a respondent in person and by mail.

The evidence at the hearing established that notice was published in the Mecklenburg Times, in Mecklenburg County, North Carolina, in May, 2014, while the disciplinary proceedings were brought in Wake County. The evidence did not establish, and the special hearing officer did not find, that the respondent had been living in Mecklenburg County in May, 2014. The evidence showed that the respondent had owned several properties in North Carolina; the hearing officer found, as the respondent testified, that there had been foreclosure proceedings on those properties.

Edmundson testified concerning his efforts to serve the respondent at two addresses in North Carolina,[6] and at her mother's house in Massachusetts, in December, 2013, and January, 2014. One of these addresses was the location of the respondent's former law office (which had been closed in 2010). Edmundson testified also to his efforts to locate the respondent using an online computer tracking service. The hearing officer found that Edmundson had made reasonably diligent efforts to serve the respondent, and that notice by publication was appropriate.[7]

The respondent testified, and the hearing officer credited, that she had lived in her mother's house in Massachusetts at some point in the period from September, 2013 through May, 2014, and had worked in her mother's child care business for approximately six months.[8] Although the hearing officer generally found the respondent not to be credible in her

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[6] One of the respondent's addresses in North Carolina, as listed by an electronic tracking service that Edmundson used, was in Charlotte, which is in Mecklenburg County, and another of her addresses was in another city in Mecklenburg County.

[7] Edmundson testified also that he had not tried to serve the respondent at one of her properties in North Carolina, because he had tried to serve her there during the earlier disciplinary proceeding, and had been unsuccessful. The hearing officer did not make any findings about this testimony.

[8] No disciplinary proceedings had been filed against the respondent in Massachusetts at that point.

inability to remember precise time periods in which she lived in Massachusetts or in North Carolina during the timeframe when she was moving between the two states, he did not find that she had misstated her address, and did not make any finding about where she actually had been living during the months at issue.[9]

The hearing officer found that Edmundson had made reasonably diligent efforts to serve the respondent in person, such that notice by publication is permissible under North Carolina's rules, but did not address whether a belief that the respondent was living in Mecklenburg County was reasonable.

Because there was no evidence as to where the respondent was living in May, 2014, the respondent's properties were undergoing foreclosure, and Edmundson had last attempted to serve her in Massachusetts, the evidence did not establish that Edmundson had a reasonable belief that the respondent was living in Mecklenburg county at the time he published the notice there. Thus, service in Mecklenburg county was inappropriate under North Carolina's rules of procedure.

6. Actual notice. After concluding that the respondent had received constructive notice by publication, the special hearing officer found that the respondent had had actual notice

[9] The respondent stated at a hearing before me, and in an affidavit filed in this court, that she had been experiencing financial difficulties because of her inability to work in the field of law, and her difficulty in finding other work.

of the disciplinary proceeding, based on testimony by Edmundson that he had spoken to the respondent's former counsel in the 2010 disciplinary proceeding by telephone, and had explained that he was seeking to contact the respondent. Based on this testimony, the hearing officer determined that it "was more likely than not" that someone at the respondent's mother's house or the respondent's former counsel "would have" done something with the letter mailed to the respondent at her mother's address, or with Edmonson's message to former counsel. Thus, the hearing officer concluded, the respondent had actual notice of the proceeding in North Carolina.

This speculation is inadequate to support a finding of actual notice. See Matter of Curry, 450 Mass. 503, 519 (2008) ("We accord great weight to the findings of fact, conclusions of law, and recommendations of the board on its review of the special hearing officer's report, upholding subsidiary facts found by the board that are supported by substantial evidence when the record is viewed in its entirety"). That Edmonson contacted the respondent's former counsel (who said she had been unable to reach the respondent) does not make the suggestion that former counsel did contact the respondent competent evidence that she must have transmitted a copy of the disciplinary complaint to the respondent, or that she had any

contact with the respondent at all.[10] Accordingly, the evidence introduced at the hearing does not support a finding of actual notice.

Given the lack of notice, the finding of default against the respondent does not comport with the requirements of due process.

7. Evidence introduced at the Massachusetts hearing that was not before the North Carolina DHC. In addition to the question of notice, the order of remand required the board (who delegated the responsibility to the special hearing officer) to determine whether there was an infirmity of proof at the hearing in North Carolina, and required the respondent to bear the burden of proving her assertion that there had been an infirmity of proof or mistakes of fact by the North Carolina DHC. The special hearing officer found that the respondent had met this

[10] Bar counsel's motion, filed after the hearing, summarized the hearing officer's finding as being that Edmundson had talked with the respondent's former attorney, she had said she would forward the complaint to the respondent, and then that the respondent had declined permission for her former attorney to accept service on her behalf. This summary is not consistent with Edmundson's testimony or with the special hearing officer's findings. Edmundson testified that he had talked with the former attorney by telephone, and that she had said she would attempt to reach the respondent, but when he called the former attorney at a later point, she said she had been unable to reach the respondent.

burden, because the evidence before the North Carolina DHC did not support a finding of intentional misuse.

The special hearing officer then went on to consider other evidence, that had not been before the North Carolina DHC, to establish the nature of the respondent's conduct in North Carolina. While the hearing officer properly cited the appropriate standard of review, see S.J.C. Rule 4:01, § 16, he extended his findings beyond an examination of the proceeding in North Carolina. He stated that he reached his additional findings relying primarily on the spreadsheet that had been introduced by bar counsel and discussed by Edmonson, which had not been introduced at the proceeding in North Carolina.

The spreadsheet was introduced over the respondent's objection,[11] in part, to its accuracy, reliability, staleness, and completeness,[12] as well as to Edmonson's testimony

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[11] The hearing officer found that Edmonson testified credibly that the spreadsheet, which involved numerous transactions in the respondent's 500-client IOLTA account, was the work product of a member of the North Carolina State Bar.

[12] The respondent testified that the spreadsheet had been constructed using only a set of bank statements, and that other, later-provided records would have shown that the asserted 125 transfers of funds, not attributed to any client according to the spreadsheet, did have proper attribution. In addition, the respondent challenged the accuracy of the calculations themselves, which purported to show a daily balance that was much lower than the daily balance recorded on the bank statements. According to the spreadsheet, for example, the respondent did not have sufficient funds in the account to pay

concerning a document he did not prepare and whose calculations he could not explain. Regardless of Edmonson's state of knowledge concerning the calculations in the spreadsheet, as bar counsel properly noted in a different context, evidence "outside the record" in the North Carolina proceeding may be considered only to the "limited extent necessary to determine if the respondent received actual or constructive notice of the North Carolina disciplinary proceeding."

Aside from issues concerning whether introduction of the spreadsheet was appropriate, whether the data were stale or incomplete, or why the calculations did not tally with the bank statements, there is a fundamental problem with the special hearing officer's conclusion, based on the spreadsheet, that it showed intentional misuse of client funds. In both of the transactions at issue, the funds the respondent received were not her clients' funds. Thus, the clients could not have been deprived of funds they had not paid and that were not owed to them. The respondent's actions, therefore, are not properly categorized as a violation of Rule 1.15 of the Massachusetts Rules of Professional Conduct, and the presumptive sanctions for intentional misuse of client funds, with deprivation, see Matter

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the taxes on the second property, but, according to the bank statement, the account had been closed with more than sufficient funds to do so. The special hearing officer did not directly address these assertions.

of Schoepfer, 426 Mass. 183 (1997), upon which the special hearing officer relied for his second recommended sanction, would not have been applicable. Nor would the discipline imposed in cases of negligent misuse of client funds under Rule 1.15 be applicable to what the hearing officer incorrectly concluded was negligent misuse of client funds with respect to the first closing.

8. Appropriate Sanction. As discussed, given the lack of notice, the finding of default against the respondent is not consistent with due process. Nonetheless, at a hearing before me, and at the hearing before the special hearing officer, the respondent agreed that she had been negligent in the use of funds provided by the sellers in two different real estate transactions, and that some discipline was appropriate for that misconduct.

The respondent averred in a written affidavit, and testified, that she inadvertently had not paid the tax bills at or near the time of the closings, and that there was a substantial delay before she either provided the buyer the funds the seller had provided at closing to pay the tax bill, or paid the bill herself. The respondent stated also that, in an effort to wind up her practice, she had closed her IOLTA account and had withdrawn the funds in cash rather than retaining them in

the IOLTA account as North Carolina (and Massachusetts) rules of professional conduct require. The special hearing officer found that the evidence before the North Carolina DHC had been sufficient to support a finding of negligent misuse of client funds, which he concluded would warrant a suspension of one year and one day from the practice of law in Massachusetts.[13]

In both cases set forth in the petition for discipline, however, the funds were paid by the sellers at closing and were entrusted to the respondent to pay the (already overdue at closing) taxes on their former properties. The respondent's clients were the buyers, not the sellers. The buyers paid no money towards the outstanding tax bills. Therefore, Rule 1.15 of the Massachusetts Rules of Professional Misconduct, involving client funds, is not the appropriate disciplinary rule to apply.

Moreover, Rule 1.15 of the North Carolina Rules of professional conduct is not entirely equivalent to the Massachusetts rule. The North Carolina rule requires that a client has been "harmed" by the attorney's misconduct. The North Carolina DHC noted that the clients could have been harmed by loss of reputation for unpaid tax bills or possible tax

[13] Although the funds that the respondent should have held in her trust account were not client funds to which the presumptive sanctions of S.J.C. Rule 1.15 apply, if the funds had been her clients' funds, and the respondent negligently misused them by the delay in payment, the appropriate sanction in Massachusetts would be a term of suspension.

takings. Potential harm that might have, but did not result, from the respondent's delay in payment of the taxes, such as the possibility of foreclosure, does not establish that a client was in fact "harmed" by the respondent's actions. The special hearing officer did not address the issue of "harm," other than to note that he put no stock in the affidavit filed by one of the respondent's clients, at her request, that he had not been harmed and was satisfied with the results of the closing.

Nonetheless, the primary concern in imposing sanctions in attorney disciplinary cases is "the effect upon, and perception of, the public and the bar" (citations omitted). See Matter of Finnerty, 418 Mass. 821, 829 (1994). Viewed in that light, negligent misuse of funds entrusted to an attorney by a third party should receive a substantial sanction in order to protect public confidence in the bar.

I have considered carefully sanctions imposed for other misuses of funds in an attorney's IOLTA account, and have taken into account bar counsel's statement that the recommended sanction would be appropriate for the negligent misuse of trust account funds. Based on this, I agree with the special hearing officer and the board that a sanction of one year and one day is appropriate for the negligent misuse of the third-party sellers' funds in this case. See Matter of Wiesman, 30 Mass. Disc. R.

440 (2014) (suspension of one year for misuse of retainer, comingling client funds, and improper accounting or failure to account for client's funds); Matter of Greenidge, 30 Mass Disc. R. 175 (2014) (suspension of one year for misuse of client funds, failing to pursue client's case, falsifying tax returns, and lying to court, with mitigating factors of mental health issues); Matter of Baker, 30 Mass Disc. R. 175 (2014 (suspension of one year and one day for lying under oath, intentionally misusing client funds in three cases (without deprivation), improperly depositing trust funds into operating account, comingling client's and other funds, and failure to maintain proper records); Matter of Cedrone, 30 Mass. R. Disc. R. 55 (2014) (suspension for six months, with requirement of petition for reinstatement, for failure to keep proper records of IOLTA account for twelve years, after warnings from bar counsel in 2004, causing checks to bounce, comingling, failing to pay expenses of closings, using money from one client to pay expenses of another client, repeatedly over period of twelve years, and providing affidavit with consent of client); Matter of Katz, 30 Mass. Disc. R. 229 (2014) (agreed-upon public reprimand for multiple instances of comingling of funds, inadequate record keeping, paying personal expenses from IOLTA account, opening different IOLTA accounts at different banks

because, due to poor record keeping, earlier IOLTA accounts could not be reconciled, and prior public reprimand for unrelated misconduct).

In sum, a suspension for one year and one day would not be "markedly disparate" from sanctions imposed on other attorneys for similar misconduct. See Matter of Pudlo, 460 Mass. 400, 405-407 (2011).

Conclusion. Upon consideration, an order shall enter suspending the respondent from the practice of law in the Commonwealth for a period of one year and one day. The respondent's reinstatement to the Massachusetts bar shall not be conditioned on her reinstatement to the North Carolina bar, and her decision not to re-apply for admission to the North Carolina bar shall not be considered in any respect when determining whether the respondent has exhibited sufficient evidence of her fitness to be reinstated to the practice of law in the Commonwealth. In light of the circumstances of the respondent's first disbarment in North Carolina, the overturning of that decision, and the nature of the process surrounding her second disbarment, including the North Carolina State Bar's decision not to allow her to re-open the matter on the ground of inadequate notice, a requirement for reinstatement in North Carolina likely would serve in effect as a permanent disbarment

in Massachusetts. Such a result would not be an appropriate disciplinary sanction for the misconduct established, and might risk a violation of due process.

By the Court,

Barbara A. Lenk

Barbara A. Lenk
Associate Justice

Entered: October 22, 2018