

IN RE: PAULA E. MATTALIANO

NO. BD- 2019-100

S.J.C. Order of Term Suspension/Stayed entered by Justice Gaziano on December 5, 2019.¹

SUMMARY²

The respondent was suspended for three months, stayed for one year on conditions, for remarking that she would not testify in a criminal trial in which she was the only witness if the criminal defendant paid her money to cover an auto insurance deductible. She claimed that the comment was not made as a serious offer.

On March 5, 2017, while driving her car on I-93 north, the respondent witnessed an assault and battery occurring in a car that was traveling in an adjacent lane. At some point thereafter, the respondent observed a passenger of the same car lean over and grab the wheel, causing the car to swerve into the respondent's lane, striking her car. The respondent's car was heavily damaged in the accident.

On March 7, 2017, both the driver and passenger were charged with assault and battery on one another and were arraigned in district court. On December 7, 2017, both criminal matters were scheduled for trial. The defendants asserted their Fifth Amendment privileges and the respondent became the sole witness for the Commonwealth.

During a court recess, one of the defendants asked the respondent if she was going to testify against them. The respondent responded with words to the effect of that if the defendant covered her \$300 deductible, she would not testify. The respondent made this remark out loud in a public corridor in the courthouse and did not intend it be a serious offer. The respondent's statement was overheard by the judge of the trial session, a Special Assistant District Attorney, and both defense attorneys. After being informed of the respondent's comment, the Assistant District Attorney dismissed the charges against both defendants.

The respondent's comment to the defendant violated Mass. R. Prof. C. 8.4(a) and was prejudicial to the administration of justice in violation of Mass. R. Prof. C. 8.4(d). In aggravation, the respondent received a public reprimand in 2010 for failing to keep records compliant with Mass. R. Prof. C. 1.15(f), making withdrawals directly from her IOLTA account and depositing client funds in her personal account. See *Matter of Mattaliano*, 26 Mass. Att'y Disc. R. 344 (2010). In mitigation, the respondent suffers from mental health issues that were exacerbated during the time of the misconduct by serious family issues.

The matter came before the Board of Bar Overseers on a stipulation of the parties agreeing to recommend a term suspension of three months, stayed for a period of one year, with the requirement that the respondent, who was admitted to the bar of the Commonwealth in 1993, undergo a mental health evaluation and engage in continuous mental health treatment for one year. On November 12, 2019, the Board of Bar Overseers voted to adopt the parties' stipulation and proposed sanction. On December 5, 2019, the Supreme Judicial Court for Suffolk so ordered.

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.