IN RE: JAMES F. BOUDREAU

NO. BD-2000-002

S.J.C. Amended Judgment of Disbarment entered by Justice Lynch on March 3, 2000.[1]

(S.J.C. Judgment of Reinstatement With Conditions entered by Justice Botsford on July 7, 2014.)

SUMMARY[2]

This matter came before the Court on the respondent's affidavit of resignation pursuant to Supreme Judicial Court Rule 4:01 § 15 and the recommendation and vote of the Board of Bar Overseers filed by the Board on January 31, 2000. An amended judgment of disbarment was entered on March 3, 2000. The underlying facts are set forth below.

On or about March 21, 1997, the respondent was appointed temporary guardian of an elderly woman. As temporary guardian, the respondent marshaled the ward's assets and transferred them to accounts under his control.

In or about June 1997, the respondent was appointed permanent co-guardian of the ward. Thereafter, from June 1997, to approximately October 1998, the respondent made payments totaling $98,768.24 for the benefit of the ward.

On or about October 1998, the ward died and the other co-guardian was named executrix of the estate. On or about September 29, 1999, the executrix's counsel requested that the respondent provide an accounting of all assets held as co-guardian. Counsel again wrote to the respondent on September 30, 1999, asking that the respondent deliver the balance of the guardianship assets to the executrix.

On October 18, 1999, the respondent delivered records and documents to the executrix. The records and documents indicated that significant assets were due to the estate. The respondent failed to release any assets to the executrix as requested.

On October 22, 1999, the respondent filed an inventory with the probate court. The inventory filed reflected that as of June 18, 1997, the assets of the estate totaled $186,033.95. On October 25, 1999, the respondent filed a first account on the guardianship matter for the period March 24, 1997 to December 29, 1998. The account reflected that the respondent received $211,594.21. The account also reflected that $138,768.24, including a disputed $40,000 claimed as attorney's fees, was disbursed by the respondent. Schedule C of the account falsely claimed a principal balance of $72,825.97.

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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.

[2] Complied by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

On November 2, 1999, the respondent was ordered by the court to file a further account before December 3, 1999. The respondent failed to comply with the order and a complaint for contempt was filed on December 6, 1999.

On December 13, 1999, the respondent filed a second and final account that indicated that there remained a balance of $72,825.97 and that the estate had a claim against the respondent for $69,669.86. The respondent did not remit the balance to the executrix but admitted to converting $69,669.86 for his own personal use.

The respondent's conduct in intentionally converting the guardianship funds with intent to deprive the estate of the funds at least temporarily and with actual deprivation resulting, his failure to properly disburse the estate funds, and his false statements on his first account as guardian, constitute violations of Disciplinary Rules 1-102(A)(4),(6) and 9-102(A),(B)(3),(4) for conduct prior to January 1, 1998 and, for conduct thereafter, Mass. R. Prof. C. 1.15(a),(b),(c) and 8.4(c).