

**NO. BD-2009-048**

S.J.C. Order of Term Suspension Retroactive to January 11, 2010, entered by Justice Cordy on April 20, 2011.¹

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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
BD-2009-048

IN RE: ROBERT V. EBERLE

MEMORANDUM OF DECISION

The respondent, Robert V. Eberle, is before the Court on an Information filed by the Board of Bar Overseers (board). The board adopted the findings of fact and conclusions of law proposed by the hearing committee, but rejected its recommendation of an eight month suspension from the practice of law and after oral argument, recommended that respondent be suspended for one year and one day, retroactive to January 11, 2010.¹ After having heard argument in this Court, largely on the question of sanction, I am ordering the imposition of the sanction recommended by the board in its carefully reasoned Memorandum.

It is plainly supported by the record that respondent:

- Knowingly commingled, between 2006 and 2009, personal funds with client funds in his IOLTA account and failed, from 2004 through 2009, to maintain required records for the account and to reconcile the account on a regular basis, all in violation of Mass. R. Prof. C. 1.15(b)(2) (prohibiting commingling); 1.15(f) (recordkeeping violations); and 8.4(h) (conduct reflecting adversely on fitness to practice).

¹ The respondent has been temporarily suspended from practicing law since January 11, 2010.

- Fabricated, in 2009, a bill for the purpose of misleading bar counsel as to when he had billed and received payment from a client, in violation of Mass. R. Prof. C. 8.1(a) & (b) (making false statement of material fact and failing to disclose facts necessary to correct a misapprehension in connection with a disciplinary matter); 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation); and 8.4(d) (conduct prejudicial to the administration of justice).
- Was convicted of operating under the influence in 1988, in violation of G. L. c. 90, § 24D, a misdemeanor, conduct also violating Mass. R. Prof. C. 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer) and (b). See Matter of Nardi, 18 Mass. Att'y Disc. R. 423 (2002); Matter of Morgan, 17 Mass. Att'y Disc. 437 (2001).
- Was convicted in 2001, within the meaning of S.J.C. Rule 4:01, § 12(3), of shoplifting merchandise over \$100 by concealment, in violation of G. L. c. 266, § 30A, a misdemeanor, but a serious crime within the meaning of S.J.C. Rule 4:01, § 12(3); and conduct also violating Mass. R. Prof. C. 8.4(b), (c), and (h).
- Was convicted after a jury-waived trial in 2009 of larceny under \$250, in violation of G. L. c. 266, § 30(1), a misdemeanor, but a serious crime within the meaning of S.J.C. Rule 4:01, § 12(3), and conduct also violating Mass. R. Prof. C. 8.4(b), (c), and (h).
- Was convicted after a jury trial in 2009 of resisting arrest, in violation of G. L. c. 268, § 32B, a misdemeanor, and conduct also violating Mass. R. Prof. C. 8.4(b) and (h).
- Failed to report his first two convictions to bar counsel, in violation of S.J.C. Rule 4:01, § 12(8).

In aggravation, he has been previously admonished on several occasions for neglect and for failing to appear in court.

As a result of the retroactive nature of the sanction, his term of suspension has concluded, and respondent may reapply for admission to the bar. He has, in the interim, requested

permission to be employed as a paralegal.

After hearing from respondent and bar counsel on the latter subject, I am allowing the request, subject to the following conditions:

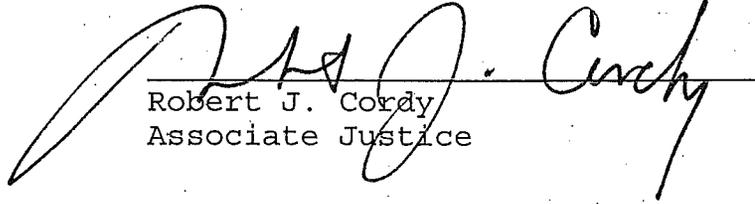
1. the respondent shall first notify the Court and bar counsel as to the identity of the attorney for whom he will be employed;

2. the identified supervising attorney shall notify the Court and bar counsel that he or she agrees to personally supervise the respondent and further agrees that the respondent will not handle or have access to client funds and accounts, and will not have direct contact with clients without the identified supervising attorney present; and

3. the respondent will notify the Court and bar counsel if the respondent's employment ends and, if applicable, the respondent shall seek permission from the Court to work for any other attorney.

Upon receipt by the Court and bar counsel of the requisite written notices above set forth in paragraphs 1 and 2, an Order shall enter allowing the Motion For Leave to Engage in Employment

as a Paralegal subject to the aforesaid conditions.



Robert J. Cordy
Associate Justice

Entered: April 20, 2011