

**IN RE: DANIEL JOSEPH HARRINGTON****NO. BD-2011-010****S.J.C. Order of Term Suspension entered by Justice Gants on March 9, 2011, with an effective date of April 8, 2011.¹****SUMMARY**²

A hearing committee found that, beginning in 2004 and while acting pro se in post-divorce proceedings, the respondent attempted to drive the presiding judge out of the case by using baseless accusations about the judge's honesty, character, fitness and qualifications. The respondent's inflammatory comments began after the judge issued a judgment adverse to the respondent on contempt complaints against him and on his complaint for modification of the divorce judgment. Among other things, the respondent characterized the judge as a pathological liar and a rat, "corrupt, dishonest and incompetent" (a phrase he repeated many times throughout the proceedings), her courtroom as a sewer, and her award of counsel fees to his ex-wife as a "wedding gift" for opposing counsel.

The respondent made his accusations primarily in eight motions to recuse presented over the course of about fifteen months; they also appeared in four letters to the chief justice of the probate court and another to the first justice of the Middlesex probate court. In one such letter, he accused the presiding judge of acting "corruptly and dishonestly." (The respondent also falsely accused another judge of "conspiring" with the presiding judge and engaging in "criminal behavior" and attempting to "subvert the legal process"). To support his accusations, the respondent made false statements about the record, obfuscated facts and misstated the holding of reported appellate cases.

In February of 2008, the judge issued a memorandum and order, sanctioning the respondent for frivolous and bad-faith pleadings. The order required the respondent to pay a fine of \$500 by May of 2008, which the respondent refused to do.

The respondent continued his conduct of filing motions and pleadings, accusing the judge of being "corrupt, dishonest and incompetent." He also filed a civil action against the judge in which he repeated his allegations. He also threatened disciplinary action against the judge and opposing counsel.

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.

At a hearing in June of 2008, the judge stated that a hearing would be held to determine if the respondent was in contempt. It was then postponed by the judge who sought the advice of the Committee on Judicial Ethics which, in a formal opinion dated October 6, 2008, advised that the judge was ethically required to report the respondent's conduct to the Board of Bar Overseers and that the judge was not automatically disqualified as a result of reporting the respondent.

A trial was held in November of 2008 on the post-divorce matters. After it was completed, the judge turned to the respondent's refusal to pay the \$500 fine (from which he did not appeal or seek a stay). After the respondent, who had declined the opportunity to have his own counsel, testified on his own behalf, the judge held the respondent in civil contempt for failure to pay the \$500 fine and ordered him jailed for ten days or until he paid the \$500 fine. The respondent refused to pay the fine and served the ten days in jail.

Throughout this time and afterwards, the respondent continued to make false and unsupported accusations attacking the integrity and qualifications of the judge.

The committee found that the respondent violated rules 3.1 (frivolous pleadings or issues) and 8.4(d) (conduct prejudicial to the administration of justice) and (h) (conduct otherwise reflecting adversely on fitness to practice). It also found that, in attacking the judge, the respondent violated Mass. R. Prof. C. 8.2 (knowingly false or reckless statements about the qualifications or integrity of a judge), and 8.4(d) and (h). It found that the respondent made reckless accusations, i.e., accusations that were without an objectively reasonable basis in fact and law.

As for the second count of the petition for discipline, the hearing committee found that the respondent made statements in his civil complaint against the judge that he knew to be false, or made with reckless disregard as to their truth or falsity, concerning the integrity or qualifications of a judge, in violation of rules 8.2, 8.4(d) and (h). The committee also found that the respondent engaged in the same type of conduct during the hearings.

In aggravation, the respondent had substantial experience in the practice of law at the time of his misconduct. *Matter of Luongo*, 416 Mass. 308, 312, 9 Mass. Att'y Disc. R. 199, 203 (1993). His misconduct was repeated and extended for over a year, and his attacks on the judge escalated in tone and content even after warnings and sanctions. *Matter of Saab*, 406 Mass. 315, 326-327, 6 Mass. Att'y Disc. R. 278, 289-290 (1989); *Matter of Clooney*, 403 Mass. 654, 657, 5 Mass. Att'y Disc. R. 59, 67-68 (1988). He engaged in his conduct for personal motives; i.e., an effort to have his case assigned to a different judge after receiving unfavorable outcomes. ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS, § 9.22(d) (1992). In further aggravation, the respondent lacked any appreciation for the nature and

consequences of his misconduct. *Matter of Cobb*, 445 Mass. 452, 480, 21 Mass. Att’y Disc. 93, 125 (2005); *Matter of Kerlinsky*, 428 Mass. 656, 666, 15 Mass. Att’y Disc. R. 304, 315 (1999).

The board adopted the hearing committee’s report and recommendation for a suspension of a year and a day. The Court so ordered on March 9, 2011.