IN RE: ROBERT H. MONHEIMER

NO. BD-2011-050

S.J.C. Judgment of Disbarment entered by Justice Duffly on September 10, 2012.[1]

SUMMARY[2]

In March 2011, bar counsel received notice of a dishonored check drawn on the respondent's IOLTA account. Bar counsel contacted the respondent in March 2011 and requested account records and an explanation for the dishonored check. In April 2011, bar counsel sent the respondent a second request for account records and an explanation. The respondent failed to send in the requested information. As a consequence, he was administratively suspended by the Supreme Judicial Court on June 1, 2011, for failure to cooperate with bar counsel. He has not been reinstated and has failed to close his IOLTA account or otherwise comply with the order of administrative suspension.

On November 8, 2011, bar counsel received a complaint from a client. Bar counsel sent the respondent a copy of the complaint and requested an explanation, a copy of the client file, and trust account records. The respondent failed to send in the requested information. Investigation by bar counsel of the client's complaint revealed the following.

In June 2010, the respondent represented the client as a seller in a real estate transaction. The respondent received $151,621 net proceeds on behalf of the seller and deposited the funds into his IOLTA account. The respondent then told the seller that he was required to hold the funds in trust for a year in case any creditors came forward. This statement was not true.

Between June 2010 and December 2010, the respondent issued checks totaling $101,333.08 to or for the benefit of the seller but intentionally converted the balance of $50,287.92 for his own business or personal purposes. The seller and his family left telephone and e-mail messages for the respondent, requesting an accounting. The respondent did not reply to the messages or provide an accounting.

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

The respondent's conduct in intentionally misrepresenting to his client that the respondent was required to hold the funds in trust for one year violated Mass. R. Prof. C. 8.4(c). The respondent's conduct in failing promptly to turn over the funds due to his client violated Mass. R. Prof. C. 1.1 and 1.15(c). The respondent's conduct in failing to keep his client's funds in trust and in converting client funds to his own use violated Mass. R. Prof. C. 1.15(b) and 8.4(c) and (h). The respondent's conduct in failing to account for the funds at the end of the representation and upon demand violated Mass. R. Prof. C. 1.15(d)(1).

The respondent's conduct in intentionally failing without good cause to respond to bar counsel's requests for information or to cooperate with bar counsel's investigation violated Mass. R. Prof. C. 8.1(b), 8.4(d), and 8.4(g). The respondent's knowing failure to comply with the order of administrative suspension and the provisions of S. J. C. Rule 4:01, § 17, violated Mass. R. Prof. C. 3.4(c) and otherwise violated Mass. R. Prof. C. 8.4(d).

On March 14, 2012 bar counsel filed a petition for discipline. The respondent did not file an answer and, on April 9, 2012, was held to be in default. On June 20, 2012, the Board of Bar Overseers filed an Information with the Supreme Judicial Court recommending that the respondent be disbarred. On September 10, 2012, the Court entered a judgment disbarring the respondent from the practice of law effective immediately.