

**NO. BD-2011-062**

**S.J.C. Judgment Accepting Resignation As A Disciplinary Sanction entered by Justice Lenk on August 11, 2011, with an effective date of September 12, 2011.<sup>1</sup>**

**SUMMARY<sup>2</sup>**

This matter came before the Board of Bar Overseers and the Court on the respondent's affidavit of resignation pursuant to Supreme Judicial Court Rule 4:01, § 15. In the affidavit, the respondent acknowledged that sufficient evidence existed to warrant findings that the material facts summarized below could be proved by a preponderance of the evidence.

The respondent was admitted to practice in the Commonwealth on December 16, 1998. Over a period of time, the respondent intentionally misappropriated funds from personal injury settlements to pay obligations owed to other clients. The respondent also intentionally misappropriated not less than \$3,000 from a personal injury settlement, for which he made restitution from his own funds.

In a separate matter, the respondent failed to file a timely application for leave to obtain further appellate review of his client's employment discrimination case, after the Appeals Court had entered a rescript decision affirming summary judgment for the opposing party. The respondent intentionally delayed informing his client of the missed deadline, and he misled the client into believing that the judgment of dismissal had been upheld on appeal. The respondent refunded the fee he had been paid by the client to handle the appeal.

By his conduct, the respondent violated Mass. R. Prof. C. 1.1; 1.2(a); 1.3; 1.4(a) and (b); 1.15(b), (c), (d)(2), and (f); and 8.4(c). In aggravation, the respondent had received a prior public reprimand, *Matter of Neal*, 19 Mass. Att'y Disc. R. 330 (2003), and an admonition, *Admonition No. 02-31*, 18 Mass. Att'y Disc. R. 689 (2002).

On July 5, 2011, the respondent filed an affidavit of resignation. Bar counsel recommended that the affidavit be accepted as a disciplinary sanction.

On June 28, 2011, the Board of Bar Overseers voted to recommend that the affidavit of resignation be accepted as a disciplinary sanction. On August 11, 2011, the Supreme Judicial Court for Suffolk County accepted the affidavit of resignation as a disciplinary sanction, effective thirty days after the date of the entry of the judgment.

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<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.