NO. BD-2011-069

S.J.C. Judgment of Disbarment entered by Justice Gants on July 21, 2011.[1]

SUMMARY[2]

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, 2002. In September 2010, the respondent was representing a client who had made a private loan secured by a first mortgage on real property. When notified by a closing attorney that the property was to be sold, the respondent forged an unsigned payoff letter from his client. The respondent gave the payoff letter to the closing attorney, and then directed that the closing attorney make the payoff check in the amount of $200,000 payable to the respondent as attorney for his client. The respondent signed his client's name to a mortgage discharge, falsely notarized the forged signature, and gave the forged discharge to the closing attorney. The respondent deposited the payoff check to his IOLTA account without notice to his client, and intentionally misappropriated the closing proceeds to pay business expenses not attributable to the client. For approximately six months, the respondent paid monthly mortgage payments to his client and intentionally misrepresented to his client that the loan was still secured by a mortgage and that the payments were being made by the borrower. Before the loan became due in March 2011, the respondent admitted the defalcation to his client. By his conduct, the respondent violated Mass. R. Prof. C. 1.2(a); 1.4(a) and (b); 1.15(b), (c), and (d)(1); 4.1(a) and (b); and 8.4(c) and (h).

On July 5, 2011, the respondent filed an affidavit of resignation. Bar counsel recommended that the affidavit be accepted and that the board recommend that a judgment of disbarment enter.

On July 11, 2011, the Board of Bar Overseers voted to recommend that the affidavit of resignation be accepted and the respondent disbarred. On July 21, 2011, the Supreme Judicial Court for Suffolk County accepted the affidavit of resignation and entered a judgment of disbarment effective immediately upon the entry of the judgment.

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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.