IN RE: PAUL J. CARCHIDI
NO. BD-2012-120
S.J.C. Order of Term Suspension entered by Justice Duffly on January 10, 2013, with an effective date of February 11, 2013.[1]

SUMMARY[2]

The respondent was suspended from the practice of law for a period of two years and six months for failing to safeguard estate funds as its administrator, for negligently misusing a portion of those funds, and for knowingly filing a false accounting regarding the estate with the probate court. His misconduct is summarized below.

In 2003, the respondent was appointed the administrator of an estate. The estate was in the approximate value of $3.4 million. It comprised a vast array of stocks, bonds and investment accounts (both in the United States and in Canada).

Over the next five years, the respondent marshaled some (but not all) of the assets belonging to the estate and performed other services on the estate's behalf, such as opposing a competing petition for probate. He also resolved an insurance claim on the estate's behalf, for which he was previously authorized to collect a contingent fee of 33 1/3 percent pursuant to an agreement with the decedent prior to his death.

However, during the respondent's five-year administration, the respondent also failed to appropriately safeguard estate funds. In particular, he (i) failed to maintain adequate or complete records of the receipt, maintenance and disposition of estate funds; (ii) failed to prepare invoices and other accountings for services rendered to the estate; and (iii) withdrew fees in round amounts on a monthly basis without reference to an invoice or other supporting documentation but rather his estimate of the number of hours worked during the billing period.

As administrator, the respondent paid himself approximately $330,000 in estate funds: $240,000 in legal fees related to his administration of the estate and $90,000 in contingent fees for the insurance claim. Of the $240,000 in legal fees, approximately $67,000 constituted overpayments made by the respondent as a result of his inadequate bookkeeping and, in particular, his overestimate of the number of hours that he actually spent working on the estate during certain billing periods.

In late 2007, a beneficiary of the estate filed a petition for an accounting of estate assets. The petition was allowed. In January of 2008, the respondent accordingly filed an accounting with the probate court. The accounting misstated the monies received by, expended by, and on hand for the estate. The respondent knowingly and falsely stated that he had paid himself $97,500 in legal fees related to the administration of the estate, when he had actually paid himself approximately $240,000 (see above). Although, because of his inadequate bookkeeping,

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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 did not then know the total amount he had paid himself, he knew that he had paid himself more than $97,500.

In March of 2008, the respondent was removed as administrator of the estate and a special administrator was appointed. The special administrator ultimately filed a lawsuit seeking repayment of the respondent's overcharges plus other unrelated damages. In 2011, the matter resolved by way of a settlement agreement between the estate, the respondent, and the insurer of a bond related to the estate.

The respondent's failure to adequately document and safeguard estate funds was in violation of Mass. R. Prof. C. 1.15(b). The respondent's failure to maintain accurate financial records and negligently misusing estate funds were in violation of Mass. R. Prof. C. 1.1, 1.3, 1.15 (b), and 8.4(h). The respondent's knowingly creating and filing a false account with the Probate Court constituted dishonesty, fraud, deceit, and misrepresentation in violation of Mass. R. Prof. C. 8.4(c); false statements of material fact to a tribunal in violation of Mass. R. Prof. C. 3.3(a); false statements of material fact to a third person in violation of Mass. R. Prof. C. 4.1; failure to provide a full written accounting in violation of Mass. R. Prof. C. 1.15(d)(1); conduct prejudicial to the administration of justice in violation of Mass. R. Prof. C. 8.4(d); and conduct that adversely reflects on his fitness to practice law in violation of Mass. R. Prof. C. 8.4(h).

In aggravation, the respondent was suspended previously for a term of six months for similar misconduct on two occasions. *See Matter of Carchidi*, 7 Mass. Att'y Disc. R. 36 (1991) and *Matter of Carchidi*, 9 Mass. Att'y Disc. R. 52 (1993).

In mitigation, the respondent made restitution to the estate under the above-referenced settlement agreement.

On October 17, 2012, the parties submitted a stipulation to the Board of Bar Overseers in which the respondent admitted the above material facts and disciplinary rule violations, and agreed to waive his right to an evidentiary hearing. The parties recommended that the respondent be suspended from the practice of law for two years and six months.

On November 19, 2012, the Board of Bar Overseers voted to accept the stipulation of the parties and their proposed sanction.

On January 10, 2013, the Supreme Judicial Court for Suffolk County (Duffly, J.) ordered that the respondent be suspended from the practice of law for two years and six months, effective thirty days after entry.