IN RE: GERALD S. SHULMAN

NO. BD-2013-059

S.J.C. Judgment Accepting Affidavit of Resignation As A Disciplinary Sanction entered by Justice Cordy on June 18, 2013, with an effective date of July 18, 2013.[1]

SUMMARY[2]

On May 23, 2013, Gerald S. Shulman, the respondent, submitted to the Board of Bar Overseers an affidavit of resignation from the practice of law pursuant to Supreme Judicial Court Rule 4:01, § 15. In his affidavit, the respondent admitted that the following material facts and disciplinary rule violations could be proven by a preponderance of the evidence.

The respondent was engaged by Metropolitan Credit Union (Metro) to collect money owed to Metro by consumers. The understanding between and practice of the parties was that the respondent was to remit to Metro 100% of the funds that his firm received from or on account of Metro debtors.

Between 2010 and 2012, the respondent was assigned various consumer accounts for collection by Metro. The respondent engaged in conversion of Metro's funds with respect to four of those accounts.

On the first account, the respondent filed suit against the debtor to collect the account. He then received payments from the debtor and remitted less than half of the payments to Metro. In July 2011, the respondent settled the lawsuit, obtained $7,000 from the debtor that was intended for Metro, did not inform Metro that he had received the funds and converted the entire $7,000 to his own use.

On the second account, the respondent entered into an agreement with the debtor to accept $3,000 as full and final payment of a $9,000 debt. When the respondent received the $3,000 from the debtor, he did not notify Metro he had received it, failed to forward the funds to Metro, and converted the funds to his own use.

On the third account, the respondent filed suit against the debtor for his indebtedness to Metro in the amount of $13,500. A few months later, the respondent entered into an

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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.

agreement with the debtor under which Metro accepted $6,000 in full and final settlement of its claim. The debtor then transmitted to the respondent six money orders, each for $1,000. The respondent paid $1,000 of that to Metro, and converted the remaining $5,000 to his own use.

On the fourth account, the respondent filed an action against the debtor for $10,590. Shortly thereafter, the respondent and the debtor executed an Agreement for Judgment for Metro in a total amount of $10,590, and filed a stipulation of dismissal with the court. The debtor promptly transmitted to the respondent a treasurer's check for $10,590. The respondent negotiated the check, but did not inform Metro that he had received the funds, did not remit any portion of the funds to Metro, and converted the entire $10,590 to his own use.

The respondent's insurer has made restitution of the amounts owed to Metro with respect to the above matters.

By failing to notify his client of his receipt of funds in which the client had an interest, and failing to promptly deliver to his client funds that it was entitled to receive, the respondent violated Mass. R. Prof. C. 1.15(c).

By converting his client's funds to his own use, the respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Mass. R. Prof. C. 8.4(c), and conduct adversely reflecting on his fitness to practice law, in violation of Mass. R. Prof. C. 8.4(h).

On June 3, 2013, the board voted to accept the respondent's affidavit of resignation as a disciplinary sanction. The matter came before the Supreme Judicial Court for Suffolk Count, Cordy, J. On June 18, 2013, the Court entered a Judgment Accepting Affidavit of Resignation as a Disciplinary Sanction, effective thirty days from the date of entry of the Judgment.