IN RE: ROSALEEN J. CLAYTON
aka ROSALEEN J. RONDON

NO. BD-2013-060
S.J.C. Order of Indefinite Suspension entered by Justice Hines on October 24, 2014.[1]
SUMMARY[2]

Rosaleen J. Clayton aka Rosaleen J. Rondon, the respondent, was admitted to the bar of the Commonwealth on January 25, 2002. In a stipulation submitted to the Board of Bar Overseers on June 23, 2014, the respondent admitted to the following facts and disciplinary rule violations.

In Count One, in the spring of 2013, the respondent effectively abandoned her law practice and the active cases of over 100 bankruptcy clients. The respondent ceased communicating with her clients. Clients were unable to contact her and she failed to respond to clients' telephone calls or other requests for information. The respondent provided no notice to her clients that she would be abandoning their cases and the practice of law. The respondent has not refunded to the clients the unearned fees.

In August 2013, a commissioner was appointed with authority to take possession of the client files, to notify the respondent's clients to obtain said files and to take other appropriate action necessary to protect the interests of the respondent's clients.

By abandoning her law practice and at least 100 bankruptcy clients without notice to her clients, necessitating the appointment of a commissioner, the respondent violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3, 1.4(a) and (b), 1.16(a) and (d), and 8.4(d) and (h).

By failing to return to her clients the unearned portion of their fees the respondent violated Mass. R. Prof. C. 1.16(d).

In Count Two, in November 2012, a client consulted the respondent regarding filing for bankruptcy. The respondent told the client that her fee was $800. The respondent also undertook to represent the client, as the seller, in a short sale of her condominium located in Southbridge.

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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.

In November 2012, a prospective buyer signed a purchase-and-sale agreement with the client to buy a condominium in Southbridge. The short sale was subject to the approval of the client's lender, and in the event that the lender's approval was not received on or before January 13, 2013, the prospective buyer had the option to cancel the contract and receive the return of his deposit.

The respondent agreed to act as escrow agent and to hold the $2,675 deposit in trust. By bank check dated December 15, 2012, the prospective buyer paid the respondent the $2,675 deposit. The respondent deposited the escrow check to her law office account at the Sovereign Bank and misused the funds for her own purposes. The respondent failed to keep adequate records and lost track of the escrow funds owed to the prospective buyer during a period when the respondent was alcohol and drug dependent.

Between January and February 2013, the client paid the respondent $500 in two installments towards her fee to handle her bankruptcy case. The respondent did no work and performed no services on the client's bankruptcy matter.

Between December 2012 and April 2013, the client's lender did not approve the short sale. By email dated April 25, 2013, the prospective buyer withdrew his offer to purchase the condominium and requested that the respondent refund his deposit. The respondent failed to respond and failed to refund the prospective buyer's deposit.

In April 2013, the client attempted to contact the respondent regarding her bankruptcy matter. The respondent did not respond to her numerous telephone calls and messages.

In June 2013, the prospective buyer sued both the respondent and the client for his deposit. The client went to the Dudley District Court in July 2013 for a hearing. The respondent failed to appear, and a judgment entered against the respondent for the deposit. The respondent failed to pay the judgment.

Between June and July 2013, the client demanded that the respondent return her $500 advance fee. The respondent failed to return the unearned fee.

By failing to deposit the prospective buyer's escrow funds to a trust account, by failing to keep adequate records, by misusing the funds and by failing to refund the deposit, the respondent violated Mass. R. Prof. C. 1.15(b) and (c), and Mass. R. Prof. C. 8.4(h).

By failing to respond to the client's telephone calls and by failing to refund the advance payment of her unearned fee, the respondent violated Mass. R. Prof. C. 1.4 (a) and (b), and Mass. R. Prof. C. 1.16 (d).

In Count Three, the respondent received letters from bar counsel requesting information in the course of investigating her conduct. The respondent knowingly failed without good cause to respond to any of these letters. In April 2013, a subpoena was served

on the respondent requiring her to appear, testify and produce records at the Office of Bar Counsel. The respondent knowingly failed without good cause to appear.

On June 20, 2013, the respondent was administratively suspended for non-cooperation with bar counsel. The respondent was not reinstated to the Massachusetts bar within thirty days and became subject to the provisions of S.J.C. Rule 4:01, § 17. The respondent did not timely and fully comply with the provisions of S.J.C. Rule 4:01, § 17(1), and the order of administrative suspension requiring her, among other things, to refund all fees paid in advance that were not earned, close all trust accounts, and properly distribute all trust funds in her possession, custody and control.

By knowingly failing without good cause to cooperate with bar counsel's investigations, the respondent violated Mass. R. Prof. C. 8.4(d), (g) and (h) and S.J.C. Rule 4:01, § 3.

The respondent's failure to file an affidavit of compliance with the Office of the Bar Counsel and a copy with the Supreme Judicial Court per the Court's order violated Supreme Judicial Court Rule 4:01, § 17(5), and Mass. R. Prof. C. 8.4(d).

The respondent has serious substance abuse problems that contributed to the misconduct but that are not mitigating in that she has not had a meaningful and sustained period of rehabilitation.

On June 2, 2014, the Board of Bar Overseers voted to accept the stipulation of the parties and to recommend that the respondent be indefinitely suspended from the practice of law. On October 24, 2014, the county court (Hines, J.), entered an order of indefinite suspension, effective immediately.