IN RE: THOMAS KEVIN DELEHANTY

NO. BD-2013-078

S.J.C. Judgment of Disbarment entered by Justice Duffly on August 6, 2013.[1]

SUMMARY[2]

This matter was submitted to the Supreme Judicial Court for Suffolk County on an affidavit whereby the respondent waived the institution of formal disciplinary proceedings and consented to his disbarment pursuant to S.J.C. Rule 4:01, § 8(7). In his affidavit, the respondent acknowledged that the material facts underlying the following charges could be proved by a preponderance of the evidence.

In 2001, an elderly client entrusted the respondent with at least about $98,200 from the client's savings. The respondent agreed to hold and manage those funds and to make periodic disbursements for the client's benefit. He failed to place those funds in a separate, interest-bearing account with interest payable as directed by the client and instead held the funds in an IOTA account. During 2008 and 2009, the respondent intentionally misused not less than about $48,200 of the client's funds for his own business or personal expenses with the intent to deprive the client of those funds at least temporarily. Thereafter the respondent intentionally misused funds of other clients to cover ongoing payments for this client's benefit.

In a second case, the respondent was entrusted in 2007 with about $113,400 inherited by a disabled client. The respondent agreed to hold, manage and disburse the funds for the client's benefit. Instead of placing and retaining those funds in a separate, interest-bearing trust account, the respondent deposited the funds to his IOTA account. In early 2009, the respondent intentionally misused not less than about $45,000 of the client's funds with the intent to deprive the client at least temporarily. He subsequently engaged in the intentional misuse of other clients' funds to cover ongoing payments for this client's benefit.

In both cases the clients were in a vulnerable position. The respondent made payments in restitution in the cases described cases, but his failure to account for all the trusts funds he received and disbursed prevented ascertainment of the total amount of funds misused and the total restitution due these or other clients.

The respondent's conversion of the clients' funds violated Mass. R. Prof. C. 8.4(c) and (h). The respondent's failure to account adequately for all the funds violated Mass. R. Prof. C. 1.15(d)(1) and 8.4(d). The respondent's failure to keep required trust account records of all

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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 funds violated Mass. R. Prof. C. 1.15(f)(1). His failure to place and maintain the funds in a separate, interest-bearing account violated Mass. R. Prof. C. 1.15(e)(5).

The respondent was admitted to the Massachusetts bar in 1982. He submitted his affidavit of consent to disbarment to the Court in July 2013. Bar counsel assented to the disbarment. On August 6, 2013, the Court entered a judgment disbarring the respondent from the practice of law in the Commonwealth effective immediately.