



IN RE: FRANK R. SAIA

NO. BD-2013-095

S.J.C. Judgment Accepting Affidavit of Resignation As A Disciplinary Sanction entered by Justice Gansts on October 8, 2013.¹

SUMMARY²

The respondent was admitted to the bar of the Commonwealth in 1979. On August 28, 2013, he submitted an affidavit of resignation as a disciplinary sanction to the Board of Bar Overseers under S.J.C. Rule 4:01, § 15. The respondent acknowledged in his affidavit that there was a pending investigation into allegations of misconduct on his part, that the material facts on which the allegations were based could be proved by a preponderance of the evidence, and that the allegations were established as fact for the purposes of bar discipline, admission, and reinstatement proceedings.

The allegations were as follows. The respondent failed to provide competent and diligent representation to a client in a tort claim with the resulting entry of summary judgment against the client. Thereafter the respondent undertook the client's appeal notwithstanding the conflict of interest in handling the appeal given the deficiencies in his representation. The respondent charged and collected a clearly excessive fee for the appeal and altered a fee agreement for the appeal after it was signed by the client. The respondent's misconduct violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3, 1.5(a), 1.7(b) and 8.4(c) and (h). The client's claim was ultimately saved by reversal on appeal because another lawyer wrote the appeal brief.

The respondent had a history of discipline consisting of an informal admonition in 1993 for withholding a client's funds to satisfy a fee; a public censure in 1990 for conflict of interest, *Matter of Saia*, 6 Mass. Att'y Disc. R. 294 (1990); and a public reprimand in 2003 for charging and collecting a clearly excessive contingent fee without a written fee agreement, *Matter of Saia*, 19 Mass. Att'y Disc. R. 380 (2003).

On September 23, 2013, the board voted to recommend the respondent's resignation as a disciplinary sanction. On October 8, 2013, the Court entered a judgment accepting the affidavit of resignation as a disciplinary sanction effective immediately.

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.