

**IN RE: JAMES S. FRANCHEK**

S.J.C. Judgment of Reinstatement entered by Justice Spina on October 21, 2014.¹

NO. BD-2013-108**S.J. C. Order of Term Suspension entered by Justice Spina on January 23, 2014, with an effective date of February 24, 2014.¹****SUMMARY**²

James S. Franchek, the respondent, was admitted to the bar of the Commonwealth on June 4, 1982. On September 14, 2004, he admitted to sufficient facts in Clinton District Court to operating under the influence or .08% in violation of G. L. c. 90, § 24(1)(a)(1). That same day, in a separate matter, the respondent admitted to sufficient facts to operating to endanger in violation of G. L. c. 90, § 24(2)(a). Both matters were continued without a finding for a year, and the respondent was subsequently discharged from probation. An admission to sufficient facts is a “conviction” as defined by S.J.C. Rule 4:01, § 12(1). The respondent violated his obligation under S.J.C. Rule 4:01, § 12(8), by failing to report the convictions to bar counsel within ten days of the conviction.

On October 21, 2013, the respondent was convicted in Concord District Court of operating under the influence, second offense, and negligent operation of a motor vehicle. He was sentenced to concurrent terms of one year in the house of correction, all suspended for a period of two years with conditions including that the respondent enter a thirty-day inpatient program within four months of sentencing, abstain from using alcohol or drugs, attend Alcoholics Anonymous meetings, and submit to random screenings.

On December 18, 2013, bar counsel filed a petition for discipline; the respondent filed an answer admitting to the allegations and that his criminal conduct and failure to report the 2004 convictions had violated Mass. R. Prof. C. 8.4(b), (d), and (h). The parties also stipulated that a six-month suspension was the appropriate sanction, with reinstatement under S.J.C. Rule 4:01, § 18(1)(a), conditioned upon demonstrating in his affidavit supporting his reinstatement that he had complied with the conditions of probation, continued treatment, and provided to bar counsel releases acceptable to his treatment providers permitting them to disclose to bar counsel all records regarding his treatment.

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.

On January 6, 2014, the Board of Bar Overseers voted to accept the stipulation of the parties and to recommend that the respondent be suspended for six months on the conditions stated in the stipulation. On January 21, 2014, the board filed an information and record of proceedings in the Supreme Judicial Court for Suffolk County. On January 23, 2014, the county court (Spina, J.), entered an order suspending the respondent for six months, effective thirty days after the entry date, with reinstatement subject to the conditions stipulated by the parties and recommended by the Board of Bar Overseers.