

**IN RE: LISBEL ALLARD****NO. BD-2014-064****S.J.C. Order of Disbarment entered by Justice Lenk on September 10, 2014.<sup>†</sup>****(Page Down to View Memorandum of Decision)**

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<sup>†</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
NO: BD-2014-064

IN RE: Lisbel Allard

MEMORANDUM OF DECISION

This matter came before me on an information and recommendation of the Board of Bar Overseers (board), that, pursuant to S.J.C. Rule 4:01, § 8(6), the respondent be disbarred from the practice of law in the Commonwealth. For the reasons set forth below, I conclude, as bar counsel and the board both suggest, that disbarment is the appropriate sanction in this case. Accordingly, an order shall enter disbarring the respondent from the practice of law in the Commonwealth, and her name shall be stricken from the role of attorneys.

Procedural background. In 2013, in response to a complaint from one of the respondent's former clients, bar counsel began an investigation into the respondent's misconduct. On March 6,

2014, after the respondent failed to appear at a hearing at the office of bar counsel, and failed to respond to a subpoena, bar counsel filed a petition for discipline against the respondent. The petition was sent by United States mail to the respondent's last known mailing address, with notification that an answer was required within twenty days. On the same date, bar counsel sent a copy of the petition to an email address that she had used previously to communicate with the respondent, and from which the respondent had replied. On March 24, bar counsel sent a copy of the petition by certified mail to the respondent's last known address. Although the letter sent by certified mail was returned as undeliverable, bar counsel received no notification that the delivery via email was unsuccessful.

The respondent did not respond to bar counsel's letters, and subsequently has not taken any action to answer the petition for discipline; as a result, the respondent was defaulted and the allegations were deemed admitted. See S.J.C. Rule 4.01 § 8(3)(a). When the respondent failed to respond to the petition, bar counsel filed a memorandum on disposition with the board, recommending that the respondent be disbarred. At a hearing on June 2, 2014, after reviewing the record in the case, the board voted to file an information with this court, also recommending that the respondent be disbarred. The respondent

thereafter failed to appear at a hearing before me on July 15, 2014. Accordingly, the sole issue before me is the sanction to be imposed.

Background. I summarize the facts set forth in the petition for discipline and related filings. The respondent was admitted to the Massachusetts bar in December, 2002. She operated a solo practice which she closed in December, 2012; in January, 2013, she changed her status to inactive.

The petition details misconduct involving three of the respondent's former clients. In each instance, the respondent failed to undertake work that she had been engaged to perform, intentionally converted client funds from her IOLTA account to her own use, permanently depriving the clients of those funds, and lied repeatedly to the clients about the proceedings in their cases. For two of the clients, the respondent has not made any restitution of the converted amounts, and in the third case she has repaid only \$1,000 of the total.

1. Ada Cordero. On January 19, 2007, the respondent signed a contingent fee agreement with Ada Cordero, under which the respondent would retain one-third of any recovery, concerning injuries Cordero suffered in a fall down a set of stairs. Cordero undertook several months of physical therapy, incurring a medical lien of \$2,288. The respondent ultimately settled the

matter for \$15,000; she advised Cordero that she would take her one-third fee from the settlement proceeds, pay the medical lien, and disburse the remaining funds to Cordero. When the respondent received the settlement check in January, 2010, made out to her law offices and Cordero, she signed the back of the check in Cordero's name, without authorization, and deposited the funds in her IOLTA account without informing Cordero that the funds had been received. The respondent did not pay the outstanding medical bills. Subsequently, she withdraw all of the funds from the IOLTA account, deposited them in her personal bank account, and thereafter apparently expended all of the money on her own expenses.

Sometime in July, 2010, Cordero received a bill from a collection agency in the amount of \$4,998.54, for services purportedly provided in conjunction with her fall. Cordero determined that many of the charges were for treatment unrelated to the fall, and provided a copy of the bill to the respondent so that she could resolve the situation with the provider. The respondent, however, took no action. Cordero made repeated unsuccessful attempts to reach the respondent, until, in February, 2011, Cordero and her husband finally met with the respondent at her office. The respondent lied and said that the money could not be disbursed while there were medical liens

pending and that she was negotiating over the medical bills.

When Cordero contacted the respondent repeatedly over the course of more than a year, from April 2011 through May 2012, inquiring about her settlement funds, she received no response.

Eventually, Cordero hired another attorney to attempt to recover the settlement proceeds, and also contacted bar counsel.

During the course of bar counsel's investigation, the respondent provided bar counsel with a falsified settlement statement which indicated that the respondent had paid \$6,881.34 in medical liens on Cordero's behalf and had disbursed \$2,846.26 to her. None of these amounts actually had been paid. In March, 2013, bar counsel notified the respondent to appear at a hearing to answer questions concerning the disbursement of the settlement; the respondent received the notification, but did not appear. Subsequently, on April 17, 2013, the board issue a subpoena requiring the respondent to appear before bar counsel to testify concerning the investigation, but she again failed to do so. The respondent never paid Cordero any of the funds from the settlement.

2. John Doe. In September, 2010, John Doe retained the respondent to represent him in appealing from a conviction of

indecent assault and battery on his wife, Jane Smith.<sup>1</sup> Doe and Smith were married in Puerto Rico in 1999. They separated in June, 2005. Thereafter, Doe moved to Connecticut and Smith and their two children moved to Massachusetts. On February 8, 2006, Doe visited Smith at her apartment and informed her that he would be filing for a divorce. The following day, Smith telephoned police to report that Doe had forced his way into her apartment and assaulted her. In February, 2007, Doe was arrested and charged with breaking and entering and indecent assault and battery; on March 26, 2007, he was convicted of the charges, based on Smith's testimony, and was required to register as a level one sex offender. Thereafter, Doe had difficulty obtaining employment, partly as a consequence of having been required to register as a convicted sex offender. Also in March, 2007, Doe filed a complaint for divorce, which was granted in September, 2008. Doe received visitation rights to his two children.

In February, 2010, Smith told Doe that she was sorry she had testified against him and that she was willing to recant that testimony. Doe obtained a recording of the trial transcript, and contacted the respondent for assistance in vacating his conviction. The respondent agreed to file a motion for a new

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<sup>1</sup> Both the husband and wife's names are pseudonyms.

trial for a flat fee of \$2,500, which Doe paid. In December, 2010, the respondent told Doe that he would need to pay an additional \$960 so that she could hire a translator to prepare an affidavit for Smith, who spoke only Spanish. After Doe paid the additional amount, the respondent, who is fluent in both Spanish and English, converted the funds to her own use and did not hire a translator. At the end of February, 2011, Smith informed Doe that she was withdrawing her offer to recant her trial testimony, would not sign the affidavits, and would not cooperate in his efforts to overturn the conviction.

Sometime that spring, the respondent informed Doe that she would file an appeal based on the tapes of the trial proceedings, and that the appeal would cost \$2,500. Doe paid the respondent, who told him in August, 2011, that she had filed an appeal in the Appeals Court. This statement was intentionally false and misleading; the time for filing an appeal had long since passed, and the respondent had taken no action to file anything concerning an appeal. Doe contacted the respondent repeatedly through December, 2011, inquiring about the status of his appeal. The respondent, knowing that no appeal had been filed, lied and told him that "these things take time." In January, 2012, Doe contacted the Appeals Court directly and learned that no appeal had been filed; when Doe telephoned the respondent, she again

misrepresented to Doe that she had filed an appeal. Toward the end of January, when Doe again sought information on the status of his appeal, the respondent told him that no appeal had been filed and that she would refund \$4,500 of the \$5,960 he had paid. As of the time of the board's vote, the respondent had reimbursed only \$1,000, and had not returned the trial tapes or Doe's file to him.

3. Angel Ramos. In November, 2006, Angel Ramos was involved in a car accident in which he was injured and his car was destroyed. The other driver was driving a vehicle rented from National Car Rental (National). Ramos retained the respondent on a contingent fee basis to pursue a personal injury claim for injuries he suffered in the accident; the respondent was to receive one-third of any recovery as her fee. The respondent notified National by telephone that she represented Ramos in connection with the accident, and National provided the respondent information about its insurance carrier, Liberty Mutual. The respondent had a member of her office staff telephone Liberty Mutual to state that the respondent represented Ramos, and Liberty Mutual requested a written letter of representation. The respondent, however, did not provide Liberty Mutual with such a letter, and made no further effort to advance Ramos's claim until she made a telephone call to Liberty Mutual

in March, 2008, following a letter from the insurer in January, 2008 that it would close the claim in thirty days if it had not heard from the respondent. The respondent said that she would provide medical bills and records, but failed to do so. In May, 2008, and in July, 2008, Liberty Mutual again notified the respondent, by letter, that it would close the file if it did not receive information concerning Ramos's injuries; the respondent did not provide any information. The statute of limitations on Ramos's personal injury claim expired in November, 2008.

From 2008 through 2010, Ramos attempted repeatedly to contact the respondent about his claim, but was unable to reach her. In the summer of 2012, the respondent telephoned Ramos and informed him that she had filed an action on his claim in the Springfield District Court. She asked Ramos to meet her at the courthouse on a certain date several weeks later; Ramos went to the courthouse on that date, but the respondent did not appear. Later that day, she telephoned him to say that she had received a \$10,000 offer of settlement from Liberty Mutual, and Ramos told her to accept the offer. The respondent had not, in fact, filed a claim on Ramos's behalf in the District Court or in any other court, and had not received any offer of settlement. Ramos made several other attempts to reach the respondent in 2012 and 2013, but was unable to do so. The respondent never informed Ramos

that she had filed no action in his case, and that there was no settlement offer.

2. Appropriate sanction. The primary concern in determining the appropriate sanction to be imposed "is the effect upon, and perception of, the public and the bar." Matter of Crossen, 450 Mass. 533, 573 (2008), quoting Matter of Finnerty, 418 Mass. 831, 829 (1994). See Matter of Alter, 389 Mass. 153, 156 (1983). The appropriate sanction is one which is necessary to deter other attorneys from the same type of conduct, and to protect the public. See Matter of Foley, 439 Mass. 324, 333 (2003), citing Matter of Concemi, 422 Mass. 326, 329 (1996). The sanction also must not be "markedly disparate" from the sanctions imposed on other attorneys for similar misconduct. See Matter of Goldberg, 434 Mass. 1022, 1023 (2001), and cases cited.

The respondent's conduct in these three matters is the type of misconduct that damages the public's respect for attorneys, the courts, and the judicial system. The respondent made deliberately false representations to all three clients, on multiple occasions, failed to pursue their matters, losing them the opportunity to do so, converted their funds to her own use, and has returned only a small fraction of the misappropriated funds. John Doe, in particular, was an extra-vulnerable individual who was not fluent in English, and who suffered

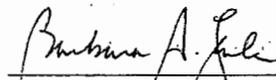
serious consequences not just in terms of unrecovered payments he made to the respondent, but in the collateral consequences of the conviction that was to have been appealed.

The presumptive sanction for intentional misappropriation of client funds, resulting in actual deprivation, is indefinite suspension or disbarment. Matter of McBride, 449 Mass. 154, 163-164 (2007); Matter of Schoepfer, 426 Mass. 183, 187 (1997).

Where an attorney has failed to make restitution, and in the absence of mitigating factors, disbarment, rather than indefinite suspension, is the appropriate sanction. See Matter of LiBassi, 449 Mass. 1014, 1017 (2007); Matter of Bryan, 411 Mass. 288, 292 (1991). The respondent has not participated in the proceedings or shown any reason why disbarment should not be imposed.

3. Disposition. An order shall enter barring the respondent from the practice of law in the Commonwealth.

By the Court

  
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 Barbara A. Lenk  
 Associate Justice

Entered: September 10, 2014

**A True Copy**

**Attest**

9-10-14  
**Date**

  
**Assistant Clerk**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
NO: BD-2014-064

IN RE: Lisbel Allard

JUDGMENT OF DISBARMENT

This matter came before the Court, Lenk, J., presiding, on an Information and Record of Proceedings pursuant to S.J.C. Rule 4:01, § 8(6), with the Recommendation and Vote of the Board of Bar Overseers (Board) filed by the Board on June 13, 2014.

On June 16, 2014, an Order of Notice issued directing the lawyer to appear before this Court on July 15, 2014, and was served on the lawyer in the manner specified in S.J.C. Rule 4:01, § 20. After a hearing was held, attended by assistant bar counsel, but not the lawyer, and in accordance with the Memorandum of Decision of this date,

It is ORDERED and ADJUDGED:

1. that Attorney Lisbel Allard is hereby disbarred from the practice of law in the Commonwealth of Massachusetts and the lawyer's name is stricken from the Roll of Attorneys. In accordance with S.J.C. Rule 4:01, sec. 17(3), the disbarment shall be effective thirty days from the date of the entry of

this Judgment. The lawyer, after the entry of this Judgment, shall not accept any new retainer or engage as a lawyer for another in any new case or legal matter of any nature. During the period between the entry date of this Judgment and its effective date, however, the lawyer may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

It is FURTHER ORDERED that:

2. Within fourteen (14) days of the date of entry of this Judgment, the lawyer shall:

a) file a notice of withdrawal as of the effective date of the disbarment with every court, agency, or tribunal before which a matter is pending, together with a copy of the notices sent pursuant to paragraphs 2(c) and 2(d) of this Judgment, the client's or clients' place of residence, and the case caption and docket number of the client's or clients' proceedings;

b) resign as of the effective date of the disbarment all appointments as guardian, executor, administrator, trustee, attorney-in-fact, or other fiduciary, attaching to the resignation a copy of the notices sent to the wards, heirs, or beneficiaries pursuant to paragraphs 2(c) and 2(d) of this Judgment, the place of residence of the wards, heirs, or beneficiaries, and the case caption and docket number of

the proceedings, if any;

c) provide notice to all clients and to all wards, heirs, and beneficiaries that the lawyer has been disbarred; that she is disqualified from acting as a lawyer after the effective date of the disbarment; and that, if not represented by co-counsel, the client, ward, heir, or beneficiary should act promptly to substitute another lawyer or fiduciary or to seek legal advice elsewhere, calling attention to any urgency arising from the circumstances of the case;

d) provide notice to counsel for all parties (or, in the absence of counsel, the parties) in pending matters that the lawyer has been disbarred and, as a consequence, is disqualified from acting as a lawyer after the effective date of the disbarment;

e) make available to all clients being represented in pending matters any papers or other property to which they are entitled, calling attention to any urgency for obtaining the papers or other property;

f) refund any part of any fees paid in advance that have not been earned; and

g) close every IOLTA, client, trust or other fiduciary account and properly disburse or otherwise transfer all client and fiduciary funds in her possession, custody or

control.

All notices required by this paragraph shall be served by certified mail, return receipt requested, in a form approved by the Board.

3. Within twenty-one (21) days after the date of entry of this Judgment, the lawyer shall file with the Office of the Bar Counsel an affidavit certifying that the lawyer has fully complied with the provisions of this Judgment and with bar disciplinary rules. Appended to the affidavit of compliance shall be:

a) a copy of each form of notice, the names and addresses of the clients, wards, heirs, beneficiaries, attorneys, courts and agencies to which notices were sent, and all return receipts or returned mail received up to the date of the affidavit. Supplemental affidavits shall be filed covering subsequent return receipts and returned mail.

Such names and addresses of clients shall remain confidential unless otherwise requested in writing by the lawyer or ordered by the court;

b) a schedule showing the location, title and account number of every bank account designated as an IOLTA, client, trust or other fiduciary account and of every account in which the lawyer holds or held as of the entry date of this Judgment any client, trust or fiduciary funds;

c) a schedule describing the lawyer's disposition of all client and fiduciary funds in the lawyer's possession, custody or control as of the entry date of this Judgment or thereafter;

d) such proof of the proper distribution of such funds and the closing of such accounts as has been requested by the bar counsel, including copies of checks and other instruments;

e) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice; and

f) the residence or other street address where communications to the lawyer may thereafter be directed.

The lawyer shall retain copies of all notices sent and shall maintain complete records of the steps taken to comply with the notice requirements of S.J.C. Rule 4:01, Section 17.

4. Within twenty-one (21) days after the entry date of this Judgment, the lawyer shall file with the Clerk of the Supreme Judicial Court for Suffolk County:

a) a copy of the affidavit of compliance required by paragraph 3 of this Judgment;

b) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice; and

c) the residence or other street address where  
communications to the lawyer may thereafter be directed.

By the Court, (Lenk, J.) *BAJ*  
*[Signature]*  
Assistant Clerk

Entered: September 10, 2014

A True Copy

Attest

9-10-14

*[Signature]*

Date

Assistant Clerk