

IN RE: SARAH S. KIM

NO. BD-2016-004

S.J.C. Order of Term Suspension entered by Justice Cordy on July 12, 2016, with an effective date of August 11, 2016.¹

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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.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No. BD 2016-004

IN RE: SARAH S. KIM

MEMORANDUM OF DECISION

This matter comes before me on an information filed by the Board of Bar Overseers (board), unanimously recommending that the respondent, Sarah S. Kim, be suspended from the practice of law for one year and one day. The petition for discipline against the respondent was filed on May 12, 2015, alleging several violations of the Rules of Professional Conduct, arising from actions taken as a litigant on her own behalf in various courts of the Commonwealth.

The facts as deemed admitted before the board are summarized as follows. The respondent was admitted to practice law in the Commonwealth in 1996. The allegations she faces stem from a 1999 collection action filed against her in Chelsea District Court by the Trustees of 74 Springvale Avenue Condominium Trust (the trustees) for unpaid common area fees on a condominium unit then owned by the respondent. Judgment entered against the respondent in that action in 2000. The judgment went unpaid, and the trustees foreclosed on the respondent's unit. The respondent pursued several appeals of

the court's ruling and instituted numerous lawsuits of her own against the trustees, its employees, and its lawyers, earning admonishment from multiple courts and, in the process, incurring court-ordered sanctions in the form of appellate fees and expenses, along with attorneys' fees and costs.

In 2005, the trustees brought a second civil case against the respondent, this time in Suffolk Superior Court, seeking an injunction to prevent her from filing additional litigation against the trustees, their agents, attorneys, and employees. The court granted a preliminary injunction to this effect in November, 2005, and a permanent injunction in March, 2007, prohibiting the respondent from filing any such litigation without prior approval by the court. In violation of that injunction, the respondent continued to pursue claims and appeals, each apparently seeking to relitigate the underlying 1999 action. One such appeal, filed in 2014 with the Supreme Judicial Court, remains ongoing.

The respondent brought appeals of the initial matter, as best I can deduce from the record, in the appellate division of the Chelsea District Court, the Suffolk Superior Court, the Massachusetts Court of Appeals, and the Supreme Judicial Court. Each of those claims were either dismissed or decided against the respondent, with multiple judges admonishing her for bringing "vexatious" and "frivolous" lawsuits. The respondent

attributes her litigious behavior to an alleged conspiracy between the trustees and the lawyers who represented them, designed to perpetuate frauds on the courts. She does not provide any justification for violating the preliminary and then permanent injunction.

In response to bar counsel's petition for discipline, which laid out, in ten detailed counts, the above-referenced facts, the respondent filed an answer on July 1, 2015, offering noncompliant answers to some of the allegations, see Board of Bar Overseers Rule 3.15 (d), admitting others to be true, and disputing the rest. As to the contested factual allegations, the respondent's answer did not so much refute the validity of those allegations as raise again the already litigated and appealed issues concerning the underlying action.

Bar counsel filed a motion to strike the respondent's answer, which had been filed late, and for other relief, including seeking to deem confirmed as admitted all of the respondent's noncompliant answers. The board denied the motion to strike the answer in its entirety, but granted the request to deem admitted the respondent's noncompliant answers. Bar counsel also filed a motion for issue preclusion as to the respondent's answers that raised the issues from the underlying action. The board granted the motion, barring the respondent from relitigating, by way of defense or mitigation, facts that

had already been the subject of the litigation underlying the petition for discipline.¹

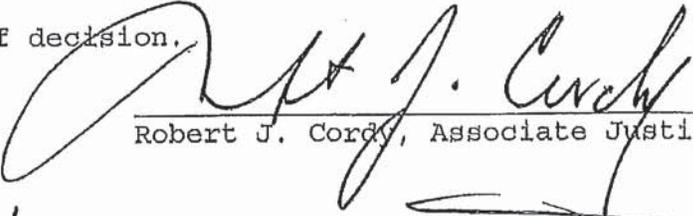
The effect of the board's orders were that all factual allegations against the respondent in the petition for discipline were deemed established and that there were no issues in mitigation for the board's consideration. Due to the procedural progression of the matter, there was never a hearing at which the respondent testified, and the hearing committee did not present any findings. In any event, the board apparently adopted the facts as alleged by bar counsel in its petition for discipline, which indicated violations of Massachusetts Rules of Professional Conduct 1.1 (lawyer shall provide competent representation to client); 3.1 (lawyer shall not bring proceeding or assert issue therein unless there is basis for doing so that is not frivolous); 3.4 (c) (lawyer shall not knowingly disobey obligation under rules of tribunal except for open refusal based on assertion that no valid obligation exists); 8.4 (d) (lawyer shall not engage in conduct that is prejudicial to administration of justice); and 8.4 (h) (lawyer

¹ The respondent did not initially oppose the motion for issue preclusion. The board indicated in its order that it would reconsider various portions of the respondent's answer upon a timely submission of a brief by the respondent. After the motion for issue preclusion had already been granted, the respondent filed an opposition and supporting memorandum as to the order allowing the motion for issue preclusion. The board vacated its original order, but then reissued the same order reaffirming the allowance of the motion.

shall not engage in any other conduct that adversely reflects on his fitness to practice law).

Bar counsel proposed that the respondent be suspended from the practice of law for one year and one day, which recommendation was adopted by the board and is supported by the record and by our precedent. The respondent commenced lawsuits and appeals on her own behalf in a manner unbecoming of the legal profession. See In the Matter of Gargano, 27 Mass. Att'y Disc. R. 383 (2011). That she deliberately pursued actions in contravention of an order of the superior court and after incurring condemnation and fines from multiple judges amplifies the concern that her behavior will continue. She has been subject to prior admonition by the board for neglect of the administration of an estate. See AD no. 07-05, 23 Mass. Att'y Disc. R. 907. The respondent's conduct is comparable to that which we have held to constitute a violation of our professional rules of conduct, see In re Kerlinsky, 428 Mass. 656 (1999) (three year suspension for filing frivolous lawsuit and false and misleading affidavits coupled with history of disciplinary action), and the proposed sanction is comparable to sanctions imposed for comparable violations. See In the Matter of Kurker, 18 Mass. Att'y Disc. R. 353 (2002); In re Cohen, 435 Mass. 7 (2001);.

The respondent is hereby suspended from the practice of law for one year and one day. A judgment shall enter in accordance with this memorandum of decision.


Robert J. Cordy, Associate Justice

Date Entered:

7/12/16