

**IN RE: ALICIA M. MCKINLEY****NO. BD-2016-057****S.J.C. Order of Term Suspension/Stayed entered by Justice Botsford on June 10, 2016.¹**
SUMMARY²

As set forth below, the respondent received a one-month suspension, stayed on conditions, for accepting assignments from the Committee for Public Counsel Services (CPCS) without professional liability insurance and for certifying insurance coverage to the Board of Bar Overseers at a time when she was not covered.

Between 2006 and 2014, the respondent accepted appointments from CPCS to represent indigent criminal defendants. Under the policies and procedures of CPCS, the respondent was required to maintain professional liability insurance. The respondent also was required, under S.J.C. Rule 4:02, §2 A, to certify on her annual registration statement filed with the board whether she was covered by professional liability insurance. If such insurance lapsed or terminated, the respondent had to notify the board in writing within thirty days.

The respondent was not covered by professional liability insurance during the following periods of time: (1) July 1, 2008 through December 5, 2008; (2) December 5, 2010, through June 1, 2011; and (3) June 1, 2012, through March 29, 2013. The respondent continued to accept appointments from CPCS during these time periods. She did not notify CPCS or the board of these lapses in coverage. On June 12, 2012, during the third lapse in coverage, the respondent filed her annual registration statement with the board. In it, she negligently certified that she was covered by professional liability insurance when she was not. At the time, the respondent mistakenly believed that she had additional time to renew her coverage before it would lapse.

CPCS later initiated a random audit of a bill submitted by the respondent on a CPCS assigned client matter. At the time, the respondent was covered by professional liability insurance. Shortly afterwards, the respondent voluntarily obtained a retroactive professional liability insurance policy with an effective date of July 1, 2008, thereby insuring her for possible claims filed by her clients for any events occurring during one of the lapses in her coverage.

Accordingly, the respondent engaged in the following professional misconduct. First, by failing to notify the board that her insurance had lapsed for more than thirty days, she violated Mass. R. Prof. C. 8.4(d) and 8.4(h). Second, by negligently certifying coverage to the board at a time when she was not covered, the respondent violated Mass. R. Prof. C. 8.4(h). Lastly, by accepting appointments from CPCS when she did not have professional liability insurance, the respondent violated Mass. R. Prof. C. 8.4(d) and 8.4(h).

The respondent's misconduct was mitigated in certain respects. Specifically, during the lapses in professional liability insurance at issue, the respondent was experiencing difficult personal circumstances, including a serious medical illness of a family member, which had a

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.

negative impact on her law office management. Additionally, during bar counsel's investigation, the respondent consulted with the Law Office Management Program (LOMAP) to address those issues. And, in further mitigation, on each occasion, the respondent remedied the lapse in insurance on her own and without the intervention of a third party.

On March 18, 2016, the parties submitted a stipulation to the board in which the respondent admitted the truth of the above facts and stipulated to the above rule violations. The parties recommended that the respondent receive a one-month suspension, stayed on the following conditions: (i) the respondent will adhere to the recommendations of LOMAP; and (ii) she will continue to maintain retroactive professional liability insurance for the next two years.

On April 11, 2016, the board voted to accept the stipulation of the parties and their proposed sanction.

On June 10, 2016, the Supreme Judicial Court for Suffolk County (Botsford, J.) entered an order adopting the board's recommendation, effective on the date of entry.