

IN RE: DIANE J. CAPOZZOLI

BBO # 558008

NO. BD-2024-117

**Judgment (Disbarment and Acceptance of Affidavit of Resignation) entered by
Justice Georges on October 28, 2024.¹**

After a hearing at which a hearing committee recommended disbarment, the respondent's Affidavit of Resignation was accepted, and she was ordered disbarred.

SUMMARY²

After a three-day disciplinary hearing, a hearing committee of the Board of Bar Overseers found that the respondent had committed varied and serious misconduct, including intentional misuse of trust funds with deprivation and without restitution. It also found that she had made intentional misrepresentations to bar counsel about the amount of work she had done for a client. The hearing committee found numerous aggravating factors, among them a lack of candor, selfish motive, and vulnerable client. It recommended disbarment.

The respondent appealed to the Board. While her appeal was pending, she submitted an Affidavit of Resignation. She asked to be allowed to resign as a disciplinary sanction, with an effective date of December 31, 2024.

By vote dated October 15, 2024, the Board recommended to the S.J.C. that it accept the respondent's Affidavit of Resignation and enter an order of disbarment. It did not include in the vote a recommendation as to the effective date.

On October 28, 2024, the Single Justice (Georges, J.) adopted the Board's recommendation, accepted the Affidavit of Resignation, and disbarred the respondent, effective December 31, 2024.

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 Massachusetts Board of Bar Overseers' Office of General Counsel based on the record filed with the Supreme Judicial Court.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-2024-117

IN RE: DIANE J. CAPOZZOLI

JUDGMENT OF DISBARMENT AND
ACCEPTANCE OF AFFIDAVIT OF RESIGNATION

This matter came before the Court, Georges J., on an Affidavit of Resignation submitted pursuant to S.J.C. Rule 4:01, § 15 submitted by Diane J. Capozzoli, with the October 15, 2024 Recommendation and Vote of the Board of Bar Overseers (Board), and a letter dated October 1, 2024, from assistant bar counsel to general counsel recommending that the resignation be accepted, and that the Board recommend that the lawyer be disbarred, with an effective date as requested by the lawyer of December 31, 2024, filed by the Board on October 24, 2024. Upon consideration thereof, it is **ORDERED** and **ADJUDGED** that:

1. The Affidavit of Resignation be, and hereby is, accepted and Diane J. Capozzoli is hereby disbarred from the practice of law in the Commonwealth with an effective date of December 31, 2024, and the lawyer's name is to be stricken from the Roll of Attorneys on said effective date.

It is **FURTHER ORDERED** that:

2. Within fourteen (14) days of the effective date 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(s) 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 effective date 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 effective 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 effective 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;

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

g) any and all bar registration cards issued to the lawyer by the Board of Bar Overseers.

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.

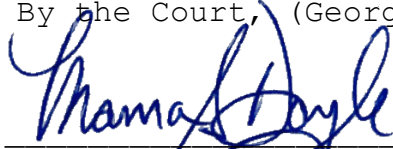
4. Within twenty-one (21) days after the effective date of this Judgment, the lawyer shall file with the Clerk of the Supreme Judicial Court for Suffolk County:

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, (Georges J.)



Maura S. Doyle, Clerk

Dated: October 28, 2024