

IN RE: DAVID D. CURTIS JR.

S.J.C. Order of Indefinite Suspension entered by Justice Ireland on July 26, 2001. ¹

SUMMARY ²

On September 18, 2000, the respondent was convicted in the Norfolk Superior Court of larceny over \$250, false entry in a corporate book, corporate bribery, and willful filing of false income tax returns. The respondent was sentenced on the larceny conviction to two years in the house of correction with thirty days to serve and placed on four years' probation. For the remaining crimes, the respondent was sentenced to concurrent terms of imprisonment for two and a half years in the house of correction with thirty days to serve and four years of probation. The respondent was temporarily suspended from the practice of law on October 5, 2000.

From January 1991 until November 1993, the respondent was employed as a worker's compensation adjuster by an insurance company. He was authorized to hire private investigative firms to determine the validity of disability claims. In about December 1991, the respondent entered into an agreement with the principals of two different private investigation firms in which the respondent agreed to employ the firms in return for a substantial fee for each such assignment. Between December 1991 and February 24, 1993, the respondent referred over 400 compensation investigations to one of these firms alone. The vast majority of these investigations were unnecessary and cost the insurer over \$400,000, thereby providing the basis for the larceny conviction.

The respondent received approximately \$31,000 from the two principals in 1992, but he did not report this income on the 1992 Massachusetts income tax return he filed jointly with his then wife in 1993. This conduct was the basis for the conviction of willful filing of a false tax return.

The conviction for corporate bribery concerned the respondent's conduct from February 17, 1993, to February 24, 1993. The respondent solicited or agreed to accept money from one of the principals as a condition of assigning investigations to the principal's firm. In return for kickbacks of \$100 to \$200 per case, the respondent assigned thirty different investigations to the firm.

Finally, the respondent was required to code each expenditure he authorized by the insurer. In addition to expenses for investigation, the respondent was authorized to make indemnity payments on behalf of claimants. The code for indemnity payments differed from the code used to record expenses. To conceal the substantial expenses being paid for investigations by the private investigation firm, the respondent recorded them as indemnity payments, thereby committing the crime of false entry in a corporate book or record.

The respondent was indicted on February 17, 1999, on thirty counts of commercial bribery, 30 counts of false entry in a corporate book or record, and one count of larceny over \$250. The indictments were sealed until April 1, 1999, at which time the respondent was summoned to appear on April 20, 1999, at the Norfolk Superior Court to answer the charges in the inducement.

On April 5, 1999, the respondent petitioned the Supreme Judicial Court for admission to the Massachusetts bar. Along with the petition, the respondent filed the required questionnaire,

which asked him to disclose whether or not he had "ever been charged with or been the subject of any investigation for a felony or misdemeanor other than a minor traffic charge..." The respondent intentionally did not disclose the pending felony indictments in Norfolk County. In addition, the respondent was subsequently charged in Suffolk County with one count of tax evasion and one count of willfully filing a false tax return under oath. These crimes are also felonies, but the respondent did not amend the questionnaire to disclose his indictment on these charges, nor did he ever notify the Board of Bar Examiners or the Supreme Judicial Court before his admission that there were pending criminal charges against him. The respondent was admitted to the bar on December 13, 1999.

On June 13, 2001, the respondent and bar counsel filed a stipulation in which the respondent admitted to the convictions and to his intentional failure to disclose the pending indictments in the questionnaire filed with the petition for admission. He agreed that his conduct leading to his conviction of criminal offenses violated Canon One, Disciplinary Rules 1-102(A)(4) and (6), and Mass. R. Prof. C. 8.4(b) and (h). His failure to disclose the pending indictments in the questionnaire filed with his petition for admission and his failure to correct or amend the questionnaire prior to his admission to the bar violated Mass. R. Prof. C. 8.1(b) and 8.4(c), (d), and (h). Bar counsel and the respondent requested that the Board of Bar Overseers recommend an indefinite suspension without retroactivity.

On July 9, 2001, the Board of Bar Overseers voted to accept the parties' stipulation and the proposed sanction. On July 24, 2001, the board filed an information with the Supreme Judicial Court recommending that the respondent be indefinitely suspended. On July 26, 2001, the Supreme Judicial Court for Suffolk County entered an order indefinitely suspending the respondent from the practice of law effective immediately.

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 before the Court.