

## IN RE: FREDERICK A. BUSCONI

S.J.C. Order of Term Suspension entered by Justice Cordy on September 4, 2002, with an effective date of October 4, 2002.<sup>1</sup>

SUMMARY<sup>2</sup>

The respondent engaged in professional misconduct involving two unrelated client matters, both involving neglect.

In the first matter, the respondent failed to present an account for allowance for three years despite repeated requests by the client and Bar Counsel. The respondent's failure to timely present the first and final account for allowance after repeated requests by his client and Bar Counsel constituted neglect of a legal matter entrusted to him in violation of Canon Six, DR 6-101(A)(3). The respondent's failure to timely respond to requests of Bar Counsel for information in connection with its investigation was in violation of S.J.C. Rule 4:01, § 3, and Canon One, DR 1-102(A)(5).

In the other matter, the respondent held funds from a client's personal injury settlement in escrow to satisfy a medical provider's lien. The respondent held the funds for almost nine years in a non-interest bearing account before delivering them to the client after repeated requests by the client and Bar Counsel. Even after the statute of limitations applicable to the medical provider's claim expired, when the client requested delivery of the escrowed funds, the respondent represented to the client that he was negotiating a compromise with the medical insurer when he had never taken any action to negotiate the lien.

The respondent's conduct in June 1991 of retaining \$1,000 held for "future medical services" when no future medical services were anticipated violated Canon Nine, DR 9-102(B)(4) (lawyer shall promptly deliver to client funds the client is entitled to receive). His conduct in failing promptly to turn over the entire \$5,343 in April 1997, when the statute of limitations had run on any claim to enforce a lien by a medical insurer violated DR 9-102(B)(4) and, after January 1, 1998, Mass. R. Prof. C. 1.15(b).

The respondent's failure to negotiate the lien and pay it within a reasonable time constituted a violation of Canon Six, DR 6-101(A)(3), and Canon Seven, DR 7-101(A)(1)-(3), for conduct prior to January 1, 1998, and Mass. R. Prof. C. 1.1, 1.2, and 1.3 for conduct after January 1, 1998. The respondent's failure to maintain reasonable communications with his client violated Canon Six, DR 6-101(A)(3), and Canon Seven, DR 7-101(A)(1)-(3) for conduct before January 1, 1998, and Mass. R. Prof. C. 1.1 and 1.4 for conduct after January 1, 1998. The respondent's misrepresentation to the client in September 1998 that he was in the process of negotiating the lien with the medical insurer violated Mass. R. Prof. C. 8.4(c) and (h). The respondent's failure to deposit the money held for the medical insurer's lien, \$5,343, in an interest bearing account between April, 1991 and March, 2000 constituted a failure to deposit funds other than nominal amounts or held for a short period in an interest bearing account in violation of Canon Six, DR 6-101(A)(3), Canon Seven, 7-101(A)(3), and Canon Nine, DR 9-102(C) for conduct prior to January 1, 1998, and Mass. R. Prof. C. 1.1, 1.2, and 1.15(e) for conduct after January 1, 1998.

The respondent has been in practice since 1964. His disciplinary history consists of two private reprimands and an admonition. He received a private reprimand in 1980 for misrepresentations, neglect and delay in returning a client file. Private Reprimand No. 80-7, 2

Mass. Att’y Disc. R 211 (1980) In 1988, the respondent received a second private reprimand for neglect, misrepresentations, failure to turn over files and non-cooperation. Private Reprimand No. 88-17, 5 Mass. Att’y Disc. R 557 (1988) Finally, an admonition was imposed for non-cooperation in 1996. Admonition 96-52, 12 Mass. Att’y Disc. R 688 (1996). In mitigation, the respondent was unable to work for health reasons in the summer of 1996 when he failed to cooperate with bar counsel by not responding to correspondence in the investigation of the estate matter.

On September 4, 2001, Bar Counsel commenced disciplinary proceedings before the Board of Bar Overseers by filing a petition for discipline . On July 3, 2002, Bar Counsel and the respondent filed Respondent’s Amended Answer to Amended Petition for Discipline and Stipulation of the Parties. On August 12, 2002, the Board of Bar Overseers voted to accept the stipulation of the parties and their joint recommendation to file an information with the Supreme Judicial Court recommending that the respondent be suspended from the practice of law for six months. On September 4, 2002, the Court entered an order suspending the respondent from the practice of law for a period of six months.

<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Board of Bar Overseers based on the record before the Court.

Please direct all questions to [webmaster@massbbo.org](mailto:webmaster@massbbo.org).

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