

IN RE: VINCENT G. CAMPANELLA, JR.

S.J.C. Judgment of Disbarment entered by Justice Sosman on October 3, 2006.<sup>1</sup>

SUMMARY<sup>2</sup>

The respondent was disbarred for misconduct arising out of his representation of two clients, as well as for his failure to cooperate with bar counsel's investigation of these and other matters.

In the first matter, the respondent was retained to represent a client on a personal injury claim arising out of an accident that occurred on or about March 5, 2005, when the client and another woman were passengers in a motor vehicle. The client was treated at a hospital for injuries resulting from the accident. The hospital asserted a lien on the client's personal injury claim.

In July 2005, the respondent settled the client's claim against the driver for \$12,500.00. The respondent deposited the settlement proceeds into his IOLTA account on August 11, 2005. On August 17, 2005, the respondent issued a check payable to himself in the amount of \$1,100.00 from his IOLTA account in payment toward the client's legal fees. He also issued a check to the client in the amount of \$3,125.00, but did not provide the client with an accounting of her settlement proceeds. The respondent then intentionally expended the balance of the client's settlement proceeds for his own personal or business purposes or those of other clients. The respondent misappropriated these funds with the intent to deprive the client or her creditors of the funds at least temporarily and with actual deprivation resulting.

On August 29, 2005, the respondent issued a check to the hospital in the amount of \$5,000.00 in full satisfaction of the hospital's lien on the client's settlement proceeds. The check was returned for insufficient funds on August 30, 2005. To date, the hospital has not been paid.

In October 2005, the respondent settled the client's underinsurance claim for \$37,500.00. The respondent did not obtain the client's consent to the settlement and did not advise her that the claim had settled. The respondent contacted the insurance adjuster to request that a check be made available for him to immediately pick-up. He obtained the settlement check payable to him and the client on October 12, 2005. The respondent then signed or caused another person to sign the client's name to the back of the check without the client's knowledge or consent and deposited the check into the respondent's business checking account. Prior to the deposit, the respondent's business account was overdrawn by \$10.00.

Between October 14, 2005, and November 30, 2005, without the client's knowledge or consent, the respondent intentionally expended the settlement funds for his own business or personal purposes or those of other clients. By November 30, 2005, the respondent's business account was overdrawn by \$764.94, without any payment to or for the benefit of the client. The respondent misappropriated these funds with the intent to deprive the client or her creditors of the funds at least temporarily and with actual deprivation resulting.

On January 11, 2006, the respondent remitted a bank check to the client in the amount of \$20,000.00, bringing the total of settlement funds disbursed to or on behalf of the client to \$23,125.00. The respondent collected not less than \$50,000.00 in settlement proceeds on

behalf of the client, but has failed to account to her for the balance of the funds collected over and above his contingent fee.

By settling the client's underinsurance claim without her knowledge or consent, the respondent violated Mass. R. Prof. C. 1.2(a), 1.4, and 8.4(c) and (h). By signing or causing the client's name to be signed to a settlement check without the client's knowledge or authorization, the respondent violated Mass. R. Prof. C. 8.4 (c) and (h). By failing to account to the client for a substantial portion of her settlement, by commingling the settlement funds with his own business or personal funds, and by intentionally converting settlement funds with intent to deprive the client of the use of the funds at least temporarily and with actual deprivation resulting, the respondent violated Mass. R. Prof. C. 1.15(b)-(d) and 8.4(c), (h).

The second matter concerned the other passenger in the same March 5, 2005 accident. The second passenger also retained the respondent to represent her on her personal injury claim. The second client was also treated at the hospital and the hospital asserted a lien on her personal injury claim.

In July 2005, the respondent settled the second client's claim against driver for \$12,500.00. The check was payable to the respondent, the client and the hospital. Shortly thereafter, in August 2005, the respondent also settled the client's underinsurance claim for \$30,000.00. The respondent received a check payable to himself and the client and he deposited the underinsurance settlement check into his IOLTA account on August 5, 2005. After the deposit, the balance in the account was \$39,767.14. The respondent deposited the original settlement check in the amount of \$12,500.00 into his IOLTA account on August 11, 2005. After the deposit, the balance in the respondent's account was \$42,553.13.

On August 17, 2005, the respondent issued a check payable to himself in the amount of \$1,100.00 from his IOLTA account in partial payment of fees owed by second client. He also issued a check to the client in the amount of \$2,625.00, but did not provide her with an accounting of her settlement proceeds. The respondent issued a check to the hospital in the amount of \$5,500.00 in full satisfaction of the hospital's lien on or about August 24, 2005. The respondent then intentionally expended the balance of the client's settlement funds for his own business or personal purposes or those of other clients. By August 29, 2005, his IOLTA account was overdrawn by \$1,948.75, without any further payments to or for the benefit of the client. The respondent misappropriated the client's funds with the intent to deprive the client or her creditors of the funds at least temporarily and with actual deprivation resulting.

On or about October 14, 2005, the respondent remitted two bank checks to the client in the amount of \$5,000.00 each, bringing the total of settlement funds disbursed to the client and her creditors to \$18,125.00. The respondent collected not less than \$42,500.00 in settlement proceeds on behalf of the client, but has failed to account to her for the balance of the funds collected over and above his contingent fee.

By failing to account to the client for a substantial portion of her settlement, and by intentionally converting settlement funds with intent to deprive the client of the use of the funds at least temporarily and with actual deprivation resulting, the respondent violated Mass. R. Prof. C. 1.15(b)-(d) and 8.4(c), (h).

In addition, the respondent failed to cooperate with bar counsel's investigation of the above files and others, resulting in his administrative suspension from the practice of law on January 19, 2006. The respondent did not thereafter seek reinstatement or otherwise comply with the requirements of S.J.C. Rule 4:01, § 3. The respondent's conduct violated Supreme Judicial Court Rule 4:01, § 3, Mass. R. Prof. C. 8.4(d), (g) and (h), and Supreme Judicial Court Rule 4:01, § 17(1).

In aggravation, the respondent failed to timely file an answer to the petition for discipline as required by Supreme Judicial Court Rule 4:01, § 8(3) and the Rules of the Board of Bar

Overseers § 3.15(c), in further violation of Supreme Judicial Court Rule 4:01, § 3(1)(c), and Mass. R. Prof. C. 8.4(d), (g) and (h).

Bar counsel filed a petition for discipline on May 19, 2006. Because the respondent failed to file an answer, the charges were deemed admitted pursuant to § 3.15(e) of the Rules of the Board of Bar Overseers. On August 14, 2006, the Board voted to recommend to the Supreme Judicial Court that the respondent be disbarred. On, October 3, 2006, the Court so ordered.

<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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