

IN RE: REINALDO GONZALEZ

NO. BD-2013-100

S.J.C. Judgment of Disbarment entered by Justice Gants on April 4, 2014.¹

SUMMARY²

In three separate client matters, the respondent intentionally misused trust funds held for his clients and spent those funds for his own purposes with permanent deprivation resulting.

The respondent was admitted to the Massachusetts bar in January 2001. On October 7, 2013, the respondent was administratively suspended for noncooperation with bar counsel and has not been reinstated.

In the first count, in September 2009, the respondent undertook to represent the client in a claim for personal injuries sustained in a motor vehicle accident. In January 2010, the respondent filed a complaint on behalf of his client in Suffolk Superior Court.

In September 2011, the client's matter settled after mediation for \$25,000. The client executed a release, and shortly after the release was signed, the respondent and his client received notice from MassHealth of a lien in the amount of \$37,727.47 for medical care provided to the client.

By check dated November 4, 2011, the defendant's insurer sent the settlement check in the amount of \$25,000 to the respondent. On November 19, 2011, the respondent deposited the check to his IOLTA account at Hampden Bank.

From November 2011 through May 2012, the respondent intentionally misused the settlement proceeds for personal or business purposes unrelated to the client, with intent to deprive his client of the settlement funds and with actual deprivation resulting. By May 30, 2012, the balance in the respondent's IOLTA account had been reduced to \$551.54 with no payments for the benefit of his client.

In December 2011, the respondent sought a reduction in the lien and MassHealth agreed to reduce the lien to \$11,200. The client refused to pay the lien and requested that the respondent seek to further reduce the lien. By March 2012, MassHealth declined to reduce the lien below \$11,200.

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.

The respondent did not deposit the disputed lien funds to an interest bearing escrow account while the disbursement of funds to MassHealth remained in dispute. The respondent never sent his client an itemized bill, notice of the amount and withdrawal of his fees and costs and a statement of the balance of the client's funds in the trust account.

The client made several telephone calls to the respondent seeking an accounting, his funds, and his file. The respondent did not respond. Additionally, neither the client nor MassHealth received any of the settlement proceeds.

By intentionally misusing his client's trust funds for his own purposes, with intent to deprive the client or other third party of the settlement funds at least temporarily and with actual deprivation resulting, the respondent violated Mass. R. Prof. C. 1.15(b) and (c), and Mass R. Prof. C. 8.4 (c) and (h).

By failing to respond to his client's telephone calls seeking an accounting of his settlement funds and payment of his settlement funds, and failing to send his client an itemized bill, notice of amount and withdrawal of his fees and costs and a statement of the balance of the client's funds in the trust account, the respondent violated Mass. R. Prof. C. 1.4(a) and 1.15 (c) and (d) (1) and (2).

By failing to deposit the settlement proceeds to an escrow account while the disbursement of funds to MassHealth was in dispute, the respondent violated violation of Mass. R. Prof. C. 1.15(b).

In the second count, in July 2011, the client engaged the services of the respondent to represent her in the sale of her business, a family market. In December 2011, the client sold her business for \$175,000. On January 3, 2012, the respondent deposited the net proceeds from the sale in the amount of \$144,025 to his IOLTA Account.

In February 2012, the respondent paid his client two checks in the amount of \$10,000 each from the IOLTA account. From February through May 2012, the respondent intentionally misused the remaining client funds for personal or business purposes unrelated to the client matter, with intent to deprive the client of her funds, with no payments to or for the benefit of the client.

Between June 2012 and February 13, 2013, the respondent made additional cash payments to or for the benefit of the client and provided other legal services credited against the amount owed her. By letter to his client, the respondent certified that he owes her \$62,643 from the sale of her business, and promised to pay that amount by April 15, 2013. The respondent did not pay his client. Thereafter, the client demanded her funds from the sale of the business, but the respondent failed to pay her.

By intentionally using his client's trust funds for his own purposes, with intent to deprive the client of the settlement funds at least temporarily and with actual deprivation resulting, the respondent violated Mass. R. Prof. C. 1.15(b) and (c), and Mass R. Prof. C. 8.4 (c) and (h).

In the third count, in June 2012, the respondent referred his client to another attorney to represent him in his bankruptcy matter. The bankruptcy attorney filed a Chapter 13 Voluntary Petition on the client's behalf. The bankruptcy attorney filed a proposed Chapter 13 Plan requiring the client to pay \$8,142 per month to the Trustee.

In or about July 2012, the client engaged the services of the respondent to facilitate his payments to the Trustee. Between July 2012 and February 2013, the client made various payments to the respondent for his monthly Chapter 13 Plan payments, which the respondent deposited to his IOLTA account. The client's payments to the respondent totaled at least \$65,612.76.

Between November 2012 and February 2013, the respondent did not forward all of the client's funds to the Trustee. During that time period, the respondent intentionally misused at least \$24,426 of the client's funds for personal or business purposes unrelated to the client, with intent to deprive the client of his funds and with actual deprivation resulting.

By intentionally misusing his client's trust funds for his own purposes, with intent to deprive the client of the trust funds and with actual deprivation resulting and by failing to forward the funds to the Trustee, the respondent violated Mass. R. Prof. C. 1.15(b) and (c), and Mass R. Prof. C. 8.4 (c) and (h).

In the addition, the respondent failed to cooperate with bar counsel's investigation. The respondent failed to respond to bar counsel's request for information related to counts two and three. As a result, he was administratively suspended.

The respondent's failure to cooperate with bar counsel's investigation violated Mass. R. Prof C. 8.4 (d), (g), and (h) and S.J.C. Rule 4:01, § 3.

In aggravation, the respondent failed to file an answer to a petition for discipline and failed to participate in the disciplinary proceedings.

On February 24, 2013, the Board of Bar Overseers voted to recommend that the respondent be disbarred from the practice of law. On April 4, 2008, the Court ordered that the respondent be disbarred from the practice of law.