

IN RE: PAUL H. SENESE

NO. BD-2018-045

**S.J.C. Order of Term Suspension entered by Justice Gaziano
on June 22, 2018, with an effective date of July 22, 2018.¹**

SUMMARY²

The respondent concentrated his practice in representing medical service providers in the collection of unpaid personal injury protection (PIP) benefits from insurance carriers. In 2014, an ambulance company hired the respondent for PIP collections on a contingent fee basis. The respondent collected a total of at least \$185,500 as the gross proceeds of the company's PIP claims and deposited those proceeds to his IOLTA account. At least about \$111,000 of that total was due the company as net proceeds after deductions for the respondent's contingent fees and cost reimbursements. The respondent failed to inform the company of his receipt of all the proceeds. He remitted only about \$75,000 and negligently misused the remainder of the net proceeds with resulting deprivation to the company.

In the spring of 2015, the company terminated the representation after the respondent failed to respond to repeated requests for a full accounting. Thereafter the respondent intentionally misrepresented to the company's representatives that the company owed him for outstanding fees and costs. The respondent never informed the company of his negligent misuse or dissipation of the remaining proceeds. He failed to keep all required records for the funds and failed to account adequately to the company or to bar counsel for his receipt and disposition of all those funds. The respondent still owes the company at least \$36,000 plus interest.

By negligently misusing the client's funds, the respondent violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3 and 1.15(b)(1) and (c) as then in effect. By failing to inform the company promptly of his receipt of all funds collected and failing timely to remit all the funds due the company, the respondent violated Mass. R. Prof. C. 1.15(c) as then in effect. By failing to account adequately for all the client's funds, the respondent violated Mass. R. Prof. C. 1.15(d)(1) as then in effect. The respondent's failure to keep required trust account records of all the funds violated Mass. R. Prof. C. 1.15(1)(B)-(E) as then in effect.

The respondent engaged in additional misconduct with other clients in the course of his practice. He failed at times to remit promptly all funds due his clients and thereby violated Mass. R. Prof. C. 1.15(c) as then in effect. In violation of Mass. R. Prof. C. 1.15(d)(1) as then in effect, the respondent failed to account adequately to all clients for all their funds. The respondent on occasion claimed false or otherwise unwarranted cost reimbursements and intentionally misrepresented his costs in itemizations given to clients, in violation of Mass. R. Prof. C. 8.4(c) and (h) as then in effect. At times, he knowingly advised clients or prospective clients to assert illegal and unenforceable statutory liens, thus violating Mass. R. Prof. C. 1.2(a) and 8.4(a), (c) and (h) as then in effect. The respondent violated Mass. R. Prof. C. 1.15(b)(2) and (f)(1)(B)-(E) by depositing earned fees and other personal or business funds to an IOLTA account, failing promptly to withdraw all his earned fees and expense reimbursements from the account, and failing to keep required IOLTA account records.

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.

In November 2016, the respondent was administratively suspended from practice for failure without good cause to furnish information and records during bar counsel's investigation. He subsequently engaged in knowing violation of the administrative suspension order by failing timely to give required notices, effect required withdrawals, and close his IOLTA account. The respondent was adjudged in contempt due to his noncompliance in February 2017. He was reinstated in April 2017 after documenting his eventual compliance with the administrative order. By knowingly and without good cause disobeying the administrative suspension order in contempt of court and failing to cooperate in bar counsel's investigation, the respondent violated Mass. R. Prof. C. 3.4(c), 8.1(b), and 8.4(c), (d) and (g), as well as S.J.C. Rule 4:01, § 3(1)(b).

The respondent was admitted to practice in Massachusetts in 1996. He had no history of discipline.

Bar counsel started formal disciplinary proceedings against the respondent by a petition for discipline filed and served in August 2017. In April 2018, prior to hearing on the petition, the parties submitted amended pleadings and a stipulated recommendation that the respondent be suspended for three and one-half years. The Board of Bar Overseers voted to accept the stipulation and recommendation. On June 22, 2018, the Supreme Judicial Court for Suffolk County entered a final order for the respondent's suspension for three years and six months to take effect on July 22, 2018.