

**IN RE: JOSEPH SANTO MANGANO****NO. BD-2011-067****S.J.C. Judgment of Disbarment entered by Justice Duffly on March 20, 2012.¹****SUMMARY²**

The respondent was admitted to practice in Massachusetts on June 15, 1988, and in New Hampshire on November 7, 1990. The respondent's license to practice in New Hampshire was administratively suspended on April 28, 1998. On August 11, 2011, the respondent was temporarily suspended in Massachusetts pending further disciplinary proceedings.

Between 2008 and July 2011, the respondent represented debtors in Chapter 7 and Chapter 13 proceedings before the U.S. Bankruptcy Court for the District of Massachusetts. During this period, the respondent was not authorized to practice law in the Bankruptcy Court because he was not a member in good standing of the U.S. District Court for the District of Massachusetts.

As of July 8, 2011, the respondent had at least fifteen appearances in the Bankruptcy Court, and was also representing at least thirty-two Massachusetts clients in bankruptcy-related matters for whom he had not yet filed appearances. On July 8, 2011, Judge Melvin S. Hoffman of the Bankruptcy Court ordered the respondent to notify his clients for whom he had filed his appearance that he was required to withdraw and to file withdrawals in the fifteen pending bankruptcy cases. The respondent complied with the order, but he did not inform the bankruptcy clients for whom he had not yet filed appearances that he was not authorized to practice law in the Bankruptcy Court, and did not withdraw from their representation and return their files, unearned fees and advances for court costs.

By practicing bankruptcy law in violation of the rules of the jurisdiction, the respondent violated Mass. R. Prof. C. 5.5(a) and 8.4(d). By failing to notify his clients that he was not authorized to represent them in bankruptcy matters; to withdraw from their representation when his representation violated the rules of professional conduct or other law; and to return their files, property and unearned fees, the respondent violated Mass. R. Prof. C. 1.4(a) and (b), 1.16(a)(1), and 1.16(d).

Between about 2003 and March or April 2011, the respondent conducted a solo law practice at 65 Merrimack Street in Lawrence, Massachusetts. By no later than the first week of April 2011, the respondent had left his law office without notice to his clients and without taking steps to protect his clients' interests, including providing his clients and the post office with his new address. The respondent left his clients' confidential records and files

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.

unsecured at his law office. On July 14, 2011, the respondent's landlord took possession of the premises after the respondent's eviction for nonpayment of rent, and changed the locks.

On August 11, 2011, on bar counsel's petition, the Supreme Judicial Court for Suffolk County temporarily suspended the respondent and appointed a commissioner pursuant to S.J.C. Rule 4:01, §§ 14, and 17(2), to take custody of, secure, and inventory all open or current client files and mail of the respondent at the law office. The Court ordered the respondent, within three days from the entry date of the order, to deliver all other open or current client files to the commissioner, and provide the Board or Bar Overseers with an address where communications could be directed to him.

The respondent did not provide the Board with his new address. On August 15, 2011, the respondent delivered some files to the commissioner, but he withheld at least nine open or current files for clients who had filed requests for investigation with bar counsel, which he finally delivered on August 23, 2011. By failing to notify his clients that he was closing his law office and to provide them with an address where he could be reached, the respondent violated Mass. R. Prof. C. 1.4(a) and (b). By failing within thirty days to provide a supplemental statement of the change in his office address with the registration office of the Board of Bar Overseers, the respondent violated S.J.C. Rule 4:02(1) and Mass. R. Prof. C. 3.4(c) (knowingly disobey an obligation under the rules of a tribunal). By knowingly disobeying the requirements of the August 11, 2011 temporary suspension order, the respondent violated Mass. R. Prof. C. 3.4(c) and 8.4(d). By failing to safeguard his clients' property and by leaving his clients' confidential records and files in his law office after he was evicted, the respondent violated Mass. R. Prof. C. 1.6(a) (protection of client confidences); 1.15(b)(3) (obligation to safeguard trust property); and 8.4(h) (conduct that adversely reflects on fitness to practice law).

Between 2009 and 2011, the respondent agreed to represent and file Chapter 7 bankruptcy petitions for ten clients. The respondent charged and collected his legal fees in advance, and also collected court filing fees of \$299 each in advance from the clients. The respondent converted to his own use the funds that he received from his clients for the filing fees. In one case, the respondent intentionally misrepresented to a client that the bankruptcy court filing fee had increased by \$250, which the client paid and the respondent converted to his own use. The respondent borrowed \$4,000 from another client while the client was waiting for the respondent to file his Chapter 7 petition. The respondent did not disclose to the client that his representation of the client in the bankruptcy might be materially limited by the respondent's own interests in connection with the loan, and the client did not consent to the conflict. In addition, the respondent did not offer to pay interest or give any security for the loan, did not inform the client that he would not likely be able to repay the loan, did not give the client a written statement of the terms of the loan in advance, and he did not give the client a reasonable opportunity to seek the advice of independent counsel. The client also did not consent in writing to the terms of the business transaction with the respondent.

After receiving his legal fees and court filing fees from the clients, the respondent failed to file the bankruptcy petitions and failed to respond to telephone calls and letters from his clients asking about the status of the matters. The clients paid for and took required credit counseling courses and obtained dated certificates which they provided to the

respondent for filing with their bankruptcy petitions. The credit counseling certificates expired because the respondent did not file the bankruptcy petitions within 180 days. The respondent withdrew from his representation of the clients without notice and without taking actions to protect the clients.

The respondent did not respond to bar counsel's requests for information during the course of her investigation. On November 3, 2010 and February 15, 2011, he was administratively suspended for his failure to cooperate, at which times he provided responses to information requests then outstanding. In his response to one matter, the respondent intentionally misrepresented to bar counsel that he had returned to a client funds advanced for fees and expenses and the client's file, providing the copy of the purported refund check and a cover letter. In fact the respondent never sent the fee refund or the file to the client.

By failing to provide competent representation to his clients, by failing to seek the clients' lawful objectives, and by failing to act with reasonable diligence and promptness in representing his clients, the respondent violated Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. By failing to keep his clients reasonably informed about the status of their cases and to promptly comply with reasonable requests for information, the respondent violated Mass. R. Prof. C. 1.4(a). By withdrawing from representation without notice to his clients, the respondent violated Mass. R. Prof. C. 1.4(a) and (b) and 1.16(d). By converting filing fees that he was paid by his clients, and by intentionally misrepresenting to a client that the bankruptcy court filing fee had increased in cost by \$250 and by converting those funds, the respondent violated Mass. R. Prof. C. 8.4(c). By entering into a business transaction with a client that was not fair and reasonable to the client, without fully disclosing the terms in writing in advance and giving the client a reasonable opportunity to seek the advice of independent counsel, and without obtaining the consent of his client in writing, the respondent violated Mass. R. Prof. C. 1.8(a). By representing the client when his business or personal interests materially limited his representation of the client when consent by the client was not possible and when the client did not consent, the respondent violated Mass. R. Prof. C. 1.7(b). By knowingly failing without good cause to respond to bar counsel's requests for information in connection with an investigation, the respondent violated S.J.C. Rule 4:01, § 3(1)(b), and Mass. R. Prof. C. 3.4(c) and 8.1(b), and 8.4(g). By making intentionally false statements of material fact to bar counsel in connection with a disciplinary matter and by supporting those false statements with false or fabricated documents, the respondent violated Mass. R. Prof. C. 3.4(b), 8.1(a), and 8.4(c) and (d).

On August 24, 2011, bar counsel filed a petition for discipline against the respondent. Because the respondent failed to file an answer to the petition, he was defaulted. On November 14, 2011, the Board of Bar Overseers voted unanimously to file an information with the Supreme Judicial Court recommending that the respondent be disbarred. The parties having filed a waiver of hearing and assent to entry of judgment of disbarment, on March 20, 2012, the Supreme Judicial Court (Duffly, J.) entered a judgment of disbarment against the respondent effective immediately upon the entry of the judgment.