



**IN RE: KIM G. CARNEVALE**  
**NO. BD-2014-047**

**S.J.C. Order of Term Suspension entered by Justice Spina on May 22, 2014.<sup>1</sup>**

(S.J.C. Judgment of Reinstatement entered by Justice Spina on August 14, 2014.)

**SUMMARY**<sup>2</sup>

A client consulted the respondent about dividing the interest in a property she held jointly with her boyfriend. The respondent requested and was paid a retainer of \$2,500. The client paid the respondent by check. The respondent cashed the check instead of depositing it into her IOLTA account. The respondent knew she had earned no more than a few hundred dollars and intentionally converted at least \$2,000 to her own use. The respondent also failed to timely send the client an itemized bill of the services she had performed.

Shortly after she hired the respondent, the client was able on her own to reach a settlement concerning the property and promptly notified the respondent by email that she had resolved the matter. With the notice terminating the representation, the client requested that the respondent provide a billing statement with the unearned portion of the retainer. The respondent received the client's email and failed for approximately six weeks to provide a billing statement or the unearned portion of her fee.

The respondent provided the client with a billing statement showing she had earned all but approximately \$450 of the client's funds, and a check to the client for the unearned amount. The client promptly notified the respondent that she disputed her bill and demanded a copy of her file. The respondent failed to promptly deliver the file and failed to put the disputed funds in escrow.

In addition to her misconduct with the client, the respondent failed, for at least three months, to have an account other than her IOLTA account and used the IOLTA as her personal account. During the time she used her IOLTA account as her personal account, she was not using the account to hold client funds.

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<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 filed with the Supreme Judicial Court.

By failing to deposit the client's retainer into her IOLTA account and by converting the retainer to her own use, the respondent violated Mass. R. Prof. C. 1.15(b) and 8.4(c). By failing to timely send the client an itemized bill, the respondent violated Mass. R. Prof. C. 1.4(a) and (b).

By failing upon request by the client to promptly render a full accounting of the funds, the respondent violated Mass. R. Prof. C. 1.4(a) and 1.15(d)(1). By failing to timely return the client's file and the unearned portion of the fee, the respondent violated Mass. R. Prof. C. 1.16(d). By failing to place the disputed portion of her fee in escrow, the respondent violated Mass. R. Prof. C. 1.15(b).

By failing to maintain at least one bank account, other than the IOLTA account, the respondent violated Mass. R. Prof. C. 1.15(f)(2). By depositing personal funds to her IOLTA account, the respondent violated Mass. R. Prof. C. 1.15(b).

In mitigation, the respondent attempted unsuccessfully to resolve the fee dispute with the client. She has paid \$500 to the client without prejudice to the client's rights to pursue the matter further. In aggravation, bar counsel had warned the respondent previously about misusing her IOLTA account as a personal account.

The matter came before the Board of Bar Overseers on a stipulation of facts and rule violations and a joint recommendation that the respondent be suspended from the practice of law for three months with the added conditions that the respondent take a MCLE course recommended by bar counsel and, upon reinstatement, certify to bar counsel her compliance with Mass. R. Prof. C. 1.15 on a quarterly basis for two years. In conjunction with the stipulation, the parties agreed to the entry of an order of temporary suspension on April 24, 2014. On May 8, 2014, the board voted to accept the joint recommendation with the agreed-upon conditions. On May 22, 2014, the Court entered the order suspending the respondent from the practice of law for three months, with the agreed-upon conditions, retroactive to April 24, 2014.