

**IN RE: SEAN MICHAEL McCARTHY**  
**NO. BD-2013-004**

**S.J.C. Order of Term Suspension entered by Justice Gants on March 27, 2013.<sup>1</sup>**

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

On August 29, 2012, the respondent, Sean Michael McCarthy, was suspended from the practice of law for three years by the Supreme Court of the State of Colorado, Office of the Presiding Disciplinary Judge. The suspension was based upon the respondent's misconduct in three matters.

In the first matter, the respondent had represented a client in 2008 on some criminal charges and obtained an acquittal. In 2010, the client hired the respondent to seal the criminal records for a flat fee of \$600. The respondent deposited the client's fee check to his IOLTA account and shortly used the funds for personal purposes. After filing a petition to seal the client's criminal records, the respondent failed to file a certified copy of the judgment of acquittal, as a result of which the petition was denied. The respondent failed to inform the client that the petition had been denied and failed to respond to a number of emails from the client.

In the second matter, the respondent agreed to represent a client in seeking a downward adjustment of his child support obligations in 2010. The client paid a flat fee of \$500, which was to be considered earned when the court ruled on the modification request. The respondent deposited the client's fee check to his IOLTA account and used the funds for personal purposes within a day. After the respondent filed a motion to modify, the court ordered the parties to exchange financial information and stated that if no agreement was reached the respondent could ask for a hearing. After providing opposing counsel with some financial information, the respondent failed to request a hearing. Months later, the client was charged with contempt for failure to pay support and learned for the first time that the respondent had failed to pursue the modification.

In the third matter, throughout 2010 the respondent used his IOLTA account as his only bank account and commingled personal and clients' funds in the account. He repeatedly overdrew the account and used checks that did not identify him as the account owner.

In mitigation, the respondent made full restitution to the above two clients.

On January 7, 2013, bar counsel filed a petition for reciprocal discipline with the Supreme Judicial Court for Suffolk County. The parties filed a waiver of hearing and assent to an order of reciprocal discipline. On March 27, 2013, the Court (Gants, J.) entered an order suspending the respondent for three years, retroactive to October 3, 2012, the effective date of the Colorado suspension, with the respondent's reinstatement in Massachusetts conditioned upon the termination of his suspension in Colorado.

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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.