

ALAN J. KARAHALIS

S.J.C. No. 91-38 BD

Judgment (public censure) entered June 14, 1991.

Summary*

The respondent had a high-volume practice in comparatively small personal injury cases with a largely Hispanic clientele. As a result of an unrelated complaint, since dismissed, the Office of Bar Counsel conducted an audit of the records of his client account from January through August of 1989. During this period, \$190,000 was deposited to the respondent's client account. While there was no evidence of misuse or misappropriation of client funds, the account was not properly maintained in several respects.

First, during the period of the test audit, the respondent had commingled personal and client funds by failing to transfer his fees from the client account when earned. This conduct was in violation of Canon Nine, DR 9-102(A).

Second, the respondent had advanced settlement monies to clients from his client account before receipt of the settlement checks. He was able to do so without using other clients' monies because of earned fees which remained in the account. This conduct was nonetheless in violation of Canon Five, DR 5-103(B). Because the cases in question had been settled in principle, the violation was largely technical.

Third, and most seriously, the respondent withheld funds from settlements for the purpose of paying medical

*Compiled by the Board of Bar Overseers based on the record submitted to the Supreme Judicial Court.

providers but then delayed making those payments, in many instances until after Bar Counsel's investigation commenced. In the thirteen settlements audited, the delays in paying medical providers ranged from a few months to a year or more; in one case, medical bills totalling about \$1,400 were not paid for almost two years after the settlement funds were received. The respondent's conduct in this respect was in violation of Canon Nine, DR 9-102(B)(4). Although disbursements were not timely made, however, the funds were not misspent in the interim.

In mitigation, the respondent had been ill and was behind in his work. Clients were pressing for settlements. He advanced monies in cases settled in principle in order to assist the clients.

In aggravation, the respondent had received a private reprimand in 1985 for misuse of client funds in 1983. See Private Reprimand No. 85-13, 4 Mass. Att'y Disc. R. 243. In that case, the respondent did not receive a more severe sanction only because the misconduct had occurred prior to the Supreme Judicial Court decision in the so-called Three Attorneys Case, *Matter of the Discipline of an Attorney and Two Companion Cases*, 392 Mass. 827 (1984).

Judgment

This matter came before the Court on an Information and Record of Proceedings filed by the Board of Bar Overseers and argument was waived by Bar Counsel, the respondent and the respondent's counsel.

The respondent having waived hearing in the matter, and having assented to the entry of an order of public censure, it is ORDERED that Alan J. Karahalidis be and he is hereby publicly censured subject to the following conditions of probation:

(a) The probationary term shall be two years from the date of this judgment.

(b) The respondent shall be required to maintain malpractice insurance in amounts satisfactory to Bar Counsel.

(c) For a period of two years from the entry of judgment in this matter, the respondent shall cause an accountant to examine his client trust and operating accounts annually and to report to Bar Counsel as set forth in the Stipulation of the Parties executed by the respondent on April 10, 1991 and incorporated herein by reference.

(d) If the respondent fails to maintain malpractice insurance, or if the accountant's reports indicate that the accounts are not being appropriately maintained, or if the respondent fails to cause the accountant to submit these reports as required, this disposition may be vacated on application by the Bar Counsel to the Supreme Judicial Court and the Bar Counsel may seek such further orders as are then warranted. In any such proceeding, the parties shall nonetheless remain bound by the admissions and stipulation to facts and disciplinary violations set forth herein.

June 14, 1991

Richard J. Rouse
Clerk of Court