

IN RE: MARC JOHN RANDAZZA

NO. BD-2018-110

S.J.C. Order of Term Suspension/Stayed entered by Justice Gaziano on May 14, 2019.¹

In a case of reciprocal discipline out of Nevada, the respondent's license was suspended for twelve months, stayed for 18 months subject to conditions. The Nevada suspension arose out of the respondent's conflicts of interest while representing a corporate client. Among other conflicts, the respondent tried to engage in an attorney-client relationship with a company that his client had sued. He also loaned money to his client without advising the client to obtain independent legal advice.

SUMMARY²

The respondent, Marc John Randazza, is an attorney duly admitted to the Bar of the Commonwealth on June 22, 2005 and admitted to practice in the States of Nevada, Florida, Arizona and California. On October 10, 2018, the Supreme Court of the State of Nevada issued an Order Approving Conditional Guilty Plea Agreement. Under that Order, the respondent was suspended for 12 months, stayed for 18 months subject to conditions.

The respondent admitted that in 2009, he was employed as in-house general corporate counsel for a company called Excelsior Media Corp and its subsidiary Liberty Media Holdings. In 2012, the respondent on behalf of Liberty filed a lawsuit in federal court in Nevada against FF Magnat Limited d/b/a Oron.com ("Oron") for violations of Liberty's intellectual property. In June 2012, the respondent obtained an injunction against Oron, freezing certain of its accounts and funds. On August 7, 2012, the court entered judgment for Liberty and against Oron for \$550,000.

Despite the judgment, between August 7 and 13 of 2012, the respondent, on behalf of Liberty, and Oron continued to negotiate the terms of a Settlement Letter. Among other topics, the respondent and Oron discussed an arrangement by which Oron would transfer \$75,000 of its frozen funds to Oron's counsel for the potential retention of respondent as counsel for Oron. The effect of such a retainer would have been to conflict the respondent from any subsequent representation of Excelsior or Liberty against Oron. These terms, as well as the payment of the \$550,000 settlement amount to Liberty, was encompassed in a "Post-Judgment Agreement." On or about August 13, 2012, the respondent presented a copy of the Post-Judgment Agreement to Liberty's CEO, Jason Gibson. Gibson did not agree to the "unfreezing" of the \$75,000.

In later discussions, the respondent agreed to loan Liberty \$25,000 for the potential expenses in other litigation which loan would be memorialized by a promissory note by Liberty. The respondent failed to advise Gibson in writing of Liberty's right to seek the advice of independent counsel with regards to the promissory note.

The Nevada Court found that the respondent's conduct violated Nevada Rules of Professional Conduct 1.8(a) (prohibiting certain conflicts of interest) and 5.6 (prohibiting a lawyer from making an agreement restricting the lawyer's right to practice in settlement of a client controversy).

On December 11, 2018, bar counsel filed a petition for reciprocal discipline. On May 14, 2019, the Court issued an order suspending the respondent from the practice of law in Massachusetts for twelve months, with the execution of the suspension stayed for a period of eighteen months retroactive to October 10, 2018, conditioned upon the respondent's compliance with the Order entered by the Supreme Court of Nevada.

¹ The complete order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

² Complied by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.