

IN RE: DANIEL W. MURRAY

NO. BD-2020-068

S.J.C. Order of Term Suspension/Stayed entered by Justice Gaziano on November 3, 2020.¹

SUMMARY²

The respondent, Daniel W. Murray, was admitted to practice on December 22, 1980, and was a solo real estate practitioner. He maintained two IOLTA accounts, one at the Bank of America (BofA) and one at Citizen's Bank. On June 25, 2020 bar counsel filed a petition for discipline against the respondent. On September 15, 2020, the parties submitted a stipulation in which the respondent admitted the truth of bar counsel's allegations and the charged rules violations, as follows:

For the BofA account, he failed to keep individual client ledgers for each client matter in which he was holding funds. He also did not keep a ledger of the personal funds he was holding in that account to cover bank fees and expenses. From 2005 to 2018, the respondent issued approximately 235 checks from the BofA account that were not deposited, cashed or otherwise negotiated by the payees. One of those was a check he wrote on April 24, 2015 for \$3,538.96 to the Town of Holliston for property taxes. The respondent took no steps to ascertain if the check was negotiated or if the property taxes were ever paid. The respondent did not disburse the funds until 2019, when he issued a check to the property owner.

Another was a check the respondent wrote on December 12, 2018 for \$1,524.42 to the Town of Avon for property taxes. The respondent took no steps to ascertain if the check was negotiated or if the property taxes were ever paid. The respondent did not disburse the funds until 2019, when he issued a check to the property owner.

From 2011 to 2018, the respondent also issued approximately 25 checks from the Citizens Bank account that were not deposited, cashed or otherwise negotiated by the payees.

As of June 2020, the respondent was unable to identify the owners of over \$100,000 in trust funds he held in his IOLTA accounts, including approximately \$78,000 of undisbursed funds in the BofA account that he described as "uncategorized funds."

The respondent's conduct, in failing to keep a ledger for personal funds deposited in the BofA account to cover bank fees and charges, violated Mass. R. Prof. C. 1.15(f)(1)(D).

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.

The respondent's failure to investigate why checks written on his IOLTA accounts were never negotiated; his failure to take timely steps to disburse funds to their rightful owners by issuing replacement checks; and his failure to promptly deliver trust funds to the appropriate clients or third parties on whose behalf he was holding funds, violated Mass. R. Prof. C. 1.1, 1.3, and 1.15(c).

The stipulation of the parties stated that the respondent had corrected his deficient recordkeeping practice and had made significant progress in resolving the issue of undisbursed funds.

On October 13, 2020, the Board of Bar Overseers voted to accept the stipulation and to recommend that the respondent be suspended for three months, to be stayed for one year, upon conditions pertaining to auditing of the respondent's trust accounts including an accounting probation agreement with bar counsel and quarterly audits, together with a disgorgement to the IOLA Committee of any remaining unidentified, undeliverable or unclaimed funds in his IOLTA accounts.

An Information was filed with the Supreme Judicial Court on October 27, 2020. On November 3, 2020, the Court (Lowy, J.) issued an order of term suspension, stayed for one year with conditions.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY NO:
BD-2020-068

IN RE: Daniel W. Murray

ORDER OF TERM SUSPENSION/STAYED
WITH CONDITIONS

This matter came before the Court, Lowy, J., on an Information and Record of Proceedings pursuant to S.J.C. Rule 4:01, § 8(6), with the Recommendation and Vote of the Board of Bar Overseers (Board) and the stipulation of the parties filed by the Board on October 27, 2020. Upon consideration thereof, it is ORDERED that:

1. Daniel W. Murray is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of three (3) months, the effective date of which is hereby stayed for a period of one (1) year pursuant to the conditions set forth in the September 15, 2020 Respondent's Answer to the Petition for Discipline and Stipulation of the Parties attached hereto and incorporated herein.

It is FURTHER ORDERED that:

2. Within fourteen (14) days of the date of entry of this Order, the lawyer shall:

a) file a notice only that the lawyer has been placed on a one (1) year period of accounting probation with every court, agency, or tribunal before which a matter is pending, together with a copy of the notices sent pursuant to paragraphs 2(b) and 2(c) of this Order, the client's or clients' place of residence, and the case caption and docket number of the client's or clients' proceedings;

b) provide notice to all clients and to all wards, heirs, and beneficiaries only that the lawyer has been placed on a one (1) year period of accounting probation;

c) provide notice to counsel for all parties (or, in the absence of counsel, the parties) in pending matters that the lawyer has been placed on a one (1) year period of accounting probation.

All notices required by this paragraph shall be served by certified mail return receipt requested.

3. Within twenty-one (21) days after the date of entry of this Order, the lawyer shall file with the Office of the Bar Counsel an affidavit certifying that the lawyer has fully complied with the provisions of this Order and with bar disciplinary rules.

Appended to the affidavit of compliance shall be: copy of each form of notice, the names and addresses of the clients, wards, heirs, beneficiaries, attorneys, courts and agencies to which notices were sent, and all return receipts or returned mail received up to the date of the affidavit. Supplemental affidavits shall be filed covering subsequent return receipts and returned mail. Such names and addresses of clients shall remain confidential unless otherwise requested in writing by the lawyer or ordered by the court;

d) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice; and

The lawyer shall retain copies of all notices sent and shall maintain complete records of the steps taken to comply with the notice requirements of S.J.C. Rule 4:01, §17.

3. Within twenty-one (21) days after the entry date of this Order, the lawyer shall file with the Clerk of the Supreme Judicial Court for Suffolk County:

a) a copy of the affidavit of compliance required by paragraph 3 of this Order;

b) a list of all other state, federal and administrative jurisdictions to which the lawyer is admitted to practice; and

4. The lawyer shall timely comply with the conditions of

this Order and remain in compliance throughout the one (1) year probationary period. If the lawyer fails to comply with any of the terms and conditions of this Order, the Office of Bar Counsel may petition this Court for the immediate imposition of the three (3) month suspension.

5. After one (1) year from the date of entry of this Order, the lawyer may file an affidavit of compliance with the Office of Bar Counsel and the Clerk of the Supreme Judicial Court for the County of Suffolk. Upon receipt, and with the assent of the Office of Bar Counsel, the lawyer may then request that this court issue an order stating that he is no longer subject to the three (3) month suspension that gave rise to the petition for discipline.

By the Court, (Lowy, J.)

/s/ Maura S. Doyle
Maura S. Doyle,

Entered: 11/3/2020