

IN RE: JOHN G. MOLLOY
NO. BD-2020-073

**S.J.C. Order of Term Suspension entered by Justice Cypher on December 10, 2020,
with an effective date of January 9, 2021.¹**

The respondent stipulated to a three-month suspension for failing to deposit trust funds into a trust account, commingling, failing to maintain required records concerning trust funds, and failing to render a full written accounting of settlement funds.

SUMMARY²

The respondent John G. Molloy, admitted to the Massachusetts bar on December 19, 1996, engaged in the following misconduct, set forth in a two-count petition for discipline:

Count One:

Between at least September 2017 and March 2018, the respondent, a part-time solo practitioner, regularly deposited settlement funds received on behalf of his clients into his operating account rather than a trust account, commingling those trust funds with his own funds. He failed to maintain required records concerning his handling of those funds.

By regularly failing to deposit client settlement funds to a client trust account, the respondent violated Mass. R. Prof. C. 1.15(b)(1). By failing to keep client trust funds separate from his own funds in his operating account, and by failing to safeguard the client trust funds by holding the funds in his operating account, the respondent violated Mass. R. Prof. C. 1.15(b) and 1.15(b)(4). By failing to maintain complete records of the receipt, maintenance, and disposition of client trust property, the respondent violated Mass. R. Prof. C. 1.15(f). By failing to maintain trust account records including a check register, individual client records, a ledger for bank fees and charges, and reconciliation reports, and to properly reconcile the records concerning the client trust funds, the respondent violated Mass. R. Prof. C. 1.15(f)(1)(B), 1.15(f)(1)(C), 1.15(f)(1)(D), and 1.15(f)(1)(E).

Count Two:

On July 24, 2017, a client engaged the respondent to pursue claims for injuries he had suffered in a three-car accident. The respondent settled the claim against one of the other drivers and commingled the settlement funds in his operating account. Around December 17, 2017, the respondent paid net proceeds to the client without a final accounting or an explanation how the net amount had been calculated. The respondent settled the claim against the other driver as well and instructed the insurer to send him a check for proceeds net of an insurance lien. Around January 8, 2018, the respondent deposited the net proceeds into his operating account in payment of his fee and expenses, without rendering a prompt and full accounting to the client.

By failing promptly to render a full written accounting to his client upon final distribution of the settlement funds, the respondent violated Mass. R. Prof. C. 1.15(d)(1).

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.

In aggravation, two years prior to the misconduct at issue, the respondent received a public reprimand for similar misconduct, i.e., he had commingled personal funds with client trust funds and he had failed to keep the same types of required trust account records as in this matter.

On November 4, 2020, the parties filed with the Board of Bar Overseers their stipulation to a three-month suspension. On November 9, 2020, the Board voted to recommend that the parties' stipulation be accepted and that their recommendation for a three-month suspension be adopted by the Court. The Court (Cypher, J.) so ordered on December 10, 2020, with an effective date of suspension of January 9, 2021.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-2020-073

IN RE: John George Molloy

ORDER OF TERM SUSPENSION

This matter came before the Court, Cypher, 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 and the stipulation of the parties filed by the Board on December 8, 2020. Upon consideration thereof, it is ORDERED that:

1. John George Molloy is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of three (3) months. In accordance with S.J.C. Rule 4:01, § 17(3), the suspension shall be effective thirty days after the date of the entry of this Order. The lawyer, after the entry of this Order, shall not accept any new retainer or engage as a lawyer for another in any new case or legal matter of any nature. During the period between the entry date of this Order and its effective date, however, the lawyer may wind up

and complete, on behalf of any client, all matters which were pending on the entry date.

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 of withdrawal as of the effective date of the suspension with every court, agency, or tribunal before which a matter is pending, together with a copy of the notices sent pursuant to paragraphs 2(c) and 2(d) 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) resign as of the effective date of the suspension all appointments as guardian, executor, administrator, trustee, attorney-in-fact, or other fiduciary, attaching to the resignation a copy of the notices sent to the wards, heirs, or beneficiaries pursuant to paragraphs 2(c) and 2(d) of this Order, the place of residence of the wards, heirs, or beneficiaries, and the case caption and docket number of the proceedings, if any;

c) provide notice to all clients and to all wards, heirs, and beneficiaries that the lawyer has been suspended; that he is disqualified from acting as a lawyer after the effective date of the suspension; and that, if

not represented by co-counsel, the client, ward, heir, or beneficiary should act promptly to substitute another lawyer or fiduciary or to seek legal advice elsewhere, calling attention to any urgency arising from the circumstances of the case;

d) provide notice to counsel for all parties (or, in the absence of counsel, the parties) in pending matters that the lawyer has been suspended and, as a consequence, is disqualified from acting as a lawyer after the effective date of the suspension;

e) make available to all clients being represented in pending matters any papers or other property to which they are entitled, calling attention to any urgency for obtaining the papers or other property;

f) refund any part of any fees paid in advance that have not been earned; and

g) close every IOLTA, client, trust or other fiduciary account and properly disburse or otherwise transfer all client and fiduciary funds in his possession, custody or control.

All notices required by this paragraph shall be served by certified mail, return receipt requested, in a form approved by the Board.

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:

a) a 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;

b) a schedule showing the location, title and account number of every bank account designated as an IOLTA, client, trust or other fiduciary account and of every account in which the lawyer holds or held as of the entry date of this Order any client, trust or fiduciary funds;

c) a schedule describing the lawyer's disposition of all client and fiduciary funds in the lawyer's possession, custody or control as of the entry date of this Order or thereafter;

d) such proof of the proper distribution of such

funds and the closing of such accounts as has been requested by the bar counsel, including copies of checks and other instruments;

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

f) the residence or other street address where communications to the lawyer may thereafter be directed.

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.

4. 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

c) the residence or other street address where
communications to the lawyer may thereafter be directed.

By the Court, (Cypher, J.)

/s/ Maura S. Doyle

Maura S. Doyle, Clerk

Entered: December 10, 2020