

SJC No. BD-2019-19

In re: Richard J. Reilly, Jr.

SJC judgment disbaring the respondent entered by Justice Budd on March 12, 2020, with an immediate effective date.

The respondent was disbarred for intentional misuse of client funds with continuing deprivation, plus substantial aggravating conduct.

Summary

The respondent represented a couple, the Ryans, who purchased a timeshare unit at a resort in Dennisport, Massachusetts, known as "The Soundings," and retained the respondent to represent them in a civil claim against the developer. The respondent filed suit on behalf of the Ryans and 32 other individuals or couples who owned timeshare units at The Soundings and, for three years, periodically engaged in negotiations with The Soundings' representatives concerning his clients' claims. In 2010, the respondent settled all but four claims, and in August 2012, he negotiated a settlement of the remaining four claims. The respondent agreed to the terms of this settlement without informing the Ryans that he was in the process of settling their claims or obtaining their assent to the terms of the settlement proposal. The respondent did not notify the opposing party or counsel that he lacked his clients' authority to enter into a settlement.

On or about August 31, 2012, the respondent received a check in the amount of \$15,000 from The Soundings, representing an initial payment toward the settlement. On the same day, he deposited the check into his IOLTA account. Prior to such deposit, the balance of funds in the IOLTA had been \$10.00. Between the date of receipt and September 18, 2012, the respondent used or transferred the entire \$15,000 settlement payment, distributing a portion of such funds to one of the four remaining Soundings clients and transferring to his own operating account \$7,342.00. The respondent used the transferred funds for his own personal and/or business expenses, unrelated to the client matter. He intentionally misused such funds with the intention and effect of depriving his clients of the initial settlement proceeds he had ostensibly obtained on their behalf.

On or around November 29, 2012, the respondent signed an Addendum to Settlement Agreement ("Addendum"). He expressly signed the Addendum both as attorney for the four remaining Soundings clients and in his personal capacity, but he executed the Addendum without informing the Ryans or obtaining their assent to its terms, and he did not notify the opposing party or counsel that he lacked his clients' authority to sign the

Addendum. The Addendum provided for a total settlement payment (including the \$15,000 paid in August 2012) of \$161,675. Of this amount, the Addendum provided for the Ryans to receive \$31,295.

Less than a month later, the respondent received a check for \$146,675, representing the balance of settlement funds due from The Soundings under the Addendum. At no point did the respondent inform the Ryans that he had received any settlement funds on their behalf. While the respondent disbursed a total of \$45,980 to two of the four remaining Soundings clients, he paid nothing to the Ryans and used most or all of the remaining funds for his personal needs, an amount which exceeded what he would have been entitled to under his fee agreement with his Soundings clients. The respondent intentionally misused such funds with the intention and effect of depriving his clients of the full proceeds of the settlement he had ostensibly obtained on their behalf. To date, the respondent has not paid over any portion of the settlement funds to the Ryans.

On December 24, 2012, the respondent filed a stipulation of dismissal in Barnstable Superior Court, dismissing the complaint he had filed against The Soundings. He never informed the Ryans that their action against the resort developer had been dismissed.

On January 29, 2018, at a disciplinary hearing concerning another matter, the respondent gave intentionally and materially false information under oath, to the effect that he had disbursed funds to the Ryans and the other clients named in the Addendum. The respondent's conduct violated Rules 1.2(a), 1.4(a), 1.4(b), 1.15(b), 1.15(c), 3.3(a)(1), 8.1(a), 8.4(c) and 8.4(h) of the Massachusetts Rules of Professional Conduct.

The second count of the petition charges the respondent with a failure to cooperate with bar counsel in his investigation of the Ryans' complaint. He failed to file a written response to the petition within the deadline. This conduct violated Rules 8.1(b) and 8.1(g), and SJC Rule 4:01, § 3.

Because the respondent did not file an Answer to the Petition for Discipline, all of the above facts were deemed admitted without opposition.

Bar counsel requested disbarment in the brief on disposition it filed February 4, 2019 before the Board of Bar Overseers, noting that the respondent was already indefinitely suspended for similar misconduct in another matter, and that in any event disbarment was the proper sanction for intentional misuse of client funds with deprivation and no restitution. The respondent filed nothing in response.

On February 11, 2019, the Board of Bar Overseers voted to recommend disbarment. On March 12, 2020, the Supreme Judicial Court for Suffolk County ordered the respondent disbarred, effective immediately upon entry of judgment.