

IN RE: STEPHEN J. MILSTEIN

S.J.C. Order of Disbarment entered by Justice Spina on January 16, 2001. <sup>1</sup>

SUMMARY <sup>2</sup>

This matter came before the Court on a Consent to Disbarment and Waiver of Formal Proceedings submitted by the respondent pursuant to S.J.C. Rule 4:01, § 8(5) and filed by Bar Counsel on January 10, 2001.

The respondent was admitted to practice in the Commonwealth of Massachusetts on December 17, 1973. On September 21, 2000, the respondent was administratively suspended pursuant to S.J.C. Rule 4:01, § 3(2) for failure to cooperate with Bar Counsel's investigation. The respondent was not reinstated within thirty days, and subsequently did not file an affidavit of compliance as required by the Order of Administrative Suspension.

On December 4, 2000, Bar Counsel filed a petition with the Supreme Judicial Court seeking the entry of an order of immediate temporary suspension pursuant to S.J.C. Rule 4:01, Section 12A, pending further disciplinary proceedings before the Board of Bar Overseers. The Court entered an order of notice directing the respondent to appear for a hearing on January 10, 2001.

In the temporary suspension petition, Bar Counsel alleged that the respondent represented three clients with respect to separate real estate transactions. The respondent received funds which he agreed to hold in escrow with respect to each of the closings. The respondent failed to maintain the escrow funds intact. Instead, he paid the funds to persons unrelated to the clients or their legal matters, including \$33,750.00 paid by checks to himself between July 20, 2000 and August 17, 2000.

By August 17, 2000, the balance of funds in the respondent's IOLTA account had been reduced to only \$654.78. This amount was insufficient to pay the more than \$182,800.00 which he was supposed to be holding in escrow for clients at the time.

The respondent failed to respond to requests from his clients or others to account for these funds.

As of the date the temporary suspension petition was filed, the respondent had not paid or accounted to three clients for approximately \$49,898.00 which he had agreed to hold in escrow for them, and he had insufficient funds in his client funds account to make these payments. The respondent had also admitted to Bar Counsel that he had misused approximately \$10,000.00 related to a closing for another client, and approximately \$45,000.00 related to a closing for two additional clients.

The respondent's misappropriation of client funds for personal use and his failure to account for client funds violated Rules 8.4(c) and 1.15 of the Massachusetts Rules of Professional Conduct.

On January 10, 2001, the respondent executed a consent to disbarment in which the respondent acknowledged that sufficient evidence existed to warrant findings that the facts summarized above could be proved by a preponderance of the evidence, and that this evidence was sufficient to establish violations of Rules 8.4(c) and 1.15 of the Massachusetts Rules of Professional Conduct. On January 16, 2001, the Court entered an order of

disbarment, effective as of the date of the order.

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<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Board of Bar Overseers based on the record before the Court.

Please direct all questions to [webmaster@massbbo.org](mailto:webmaster@massbbo.org).  
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