

IN RE: MICHAEL A. PARIS

S.J.C. Order of Term Suspension entered by Justice Ireland on November 5, 2001, with an effective date of December 5, 2001.¹

SUMMARY²

The respondent was admitted to the Bar of the Commonwealth on November 19, 1968. This matter came to Bar Counsel's attention as the result of the receipt in October 1997 of a notice of two dishonored checks from the bank in which the respondent's IOLTA account was maintained.

The dishonored checks were in the amounts of \$3067 and \$800. The balance in the IOLTA account was zero when these checks were presented and payment would have created overdrafts. These checks were intended, in one instance, to pay an insurance lien on behalf of a client and, in the other, to pay a client's medical bill. Both checks were immediately reissued and paid.

The respondent concentrated his practice in personal injury work. He was responsible for maintaining the financial records for the firm's trust account. However, his record keeping in the IOLTA account was generally inadequate. Individual client ledgers were not maintained; an accurate check register was not maintained; contingent fees were not withdrawn from the account as earned and, when paid, were often withdrawn piecemeal in round amounts and sometimes without reference to particular client matters; business expenses were improperly paid directly from the trust account; and the account was not reconciled.

The respondent generally attempted to make payments to clients or on their behalf as client funds were received and he assumed that the remaining balance in the account was fees owed the firm. However, he did not keep adequate track of checks that had not cleared or of funds due clients that had not been disbursed. As a result of these problems, the respondent made assumptions, sometimes incorrectly, as to whose funds comprised the balance in the account and how much was due the firm. These problems ultimately led to the deficiencies in the account that caused the checks to be dishonored and to other problems described below.

In one case, a client in 1994 received \$32,000 as his share of a settlement but never cashed the check. Three years later, the client's daughter advised the law firm that the check had not been paid. By that time, there were insufficient funds available in the trust account to pay this sum. The respondent made two payments of \$8000 each in 1997 and 1998 to the client from the IOLTA account and a final payment of \$16,000 in 1999 from the operating account. By the time that the second payment of \$8000 was made in 1998, there were no funds of this client remaining in the account and the check was paid from fees due the law firm on unrelated matters. At least after 1997 and until payment in full was made in 1999, the client was temporarily deprived of his funds.

In another matter, the respondent was holding PIP funds for co-plaintiffs pending settlement of the tort case. The clients subsequently retained other counsel, but the respondent was to continue to hold the remaining \$18,427.65 in PIP money. However, by January 2000, the balance in the IOLTA was \$3383.32, with only one additional payment of \$604 having been made from the PIP funds on account of one of the clients. Thereafter, in 2000 and 2001, the respondent disbursed an additional \$3710 to medical providers. On May 3, 2001, and after Bar Counsel brought this matter to his attention, the respondent remitted the remaining balances

to the clients. The tort cases were still pending at this point. Because the clients had not sought or expected disbursement of the PIP funds before the tort cases concluded, the clients were not deprived of their funds.

The respondent's negligent misuse of client funds without intent to deprive but with actual deprivation resulting in one instance, his commingling of client funds with personal or business funds, and his inadequate and improper record keeping is conduct in violation of Canon Nine, DR 9-102(A),(B)(3),(4) and Mass. R. Prof. C. 1.15(a).

The matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and a joint recommendation for a one-year suspension with reinstatement conditioned upon a two-year accounting probation and attendance at a CLE program designated by Bar Counsel. On October 15, 2001, the Board voted to accept the stipulation and to recommend the agreed-upon disposition to the Supreme Judicial Court. The Court so ordered on November 5, 2001.

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 before the Court.

Please direct all questions to webmaster@massbbo.org.

© 2001. Board of Bar Overseers. Office of Bar Counsel. All rights reserved.