

IN RE: DEMETRIOS G. KAFKAS

S.J.C. Order of Term Suspension entered by Justice Sosman on June 10, 2002.¹
(S.J.C. Judgment of Reinstatement with Conditions entered by Justice Botsford on November 7, 2012.)

SUMMARY²

The respondent was admitted to the Bar of the Commonwealth on April 1, 1994. At all relevant times, he was a sole practitioner in Lowell, Massachusetts. His practice consisted primarily of small or medium-sized personal injury claims.

On February 5, 1999, and pursuant to Mass. R. Prof. C. 1.15(f), Bar Counsel received notice from the bank in which the respondent maintained his IOLTA account that a check in the amount of \$3996.98 drawn on the respondent's IOLTA account had been dishonored. The check was payable to a client in settlement of a personal injury claim and payment would have caused an overdraft in the amount of \$326. The respondent deposited personal funds to the account to enable the check to clear upon redeposit.

Commencing at least as of 1998 and continuing until 2001, the respondent's record keeping in his IOLTA account was generally inadequate. Individual client ledgers were not maintained; an accurate check register was not maintained; disbursements to clients were not made promptly; fees were not withdrawn from the account as earned and, when paid, were often withdrawn in round amounts without reference to particular client matters; business or personal expenses were paid directly from the trust account; and the account was not reconciled. The respondent also 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 practices, the respondent made incorrect assumptions as to whose funds comprised the balance in the IOLTA account at any given time and how much was due the respondent. These errors in turn led to instances of deficiencies in the IOLTA account, including the dishonored check described above and also including but not limited to six additional matters between 1998 and 2001 in which the account balance was insufficient to cover obligations to clients. The shortfalls in these instances ranged from approximately \$1000 to \$6000.

The respondent paid the clients their shares of the settlements in full between four to ten weeks after he deposited the settlement funds. However, because of his inadequate record keeping, the respondent was unaware that these settlement checks to the clients were enabled to clear only by the use of unrelated subsequent deposits.

The respondent's negligent misuse of client funds without intent to deprive but with actual deprivation resulting, his commingling of client funds with personal or business funds, his failure to make prompt disbursement of trust funds, and his inadequate and improper record keeping is conduct in violation of Mass. R. Prof. C. 1.15(a), (b).

The matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and a joint recommendation for a two-year suspension. On May 13, 2002, the Board

voted to accept the stipulation and to recommend the agreed-upon disposition to the Supreme Judicial Court. The Court so ordered on June 10, 2002.

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.