

## IN RE: RICHARD H. WYNN

S.J.C. Judgment of Disbarment entered by Justice Spina on May 1, 2003.<sup>1</sup>

SUMMARY<sup>2</sup>

In August of 1999, a client retained the respondent to represent her with regard to a personal injury claim. Without the client's knowledge or authorization, the respondent forwarded an executed release and settlement of claim to the other party's insurance company. The release purported to be signed by the client but instead was fraudulently signed or caused to be signed by the respondent, who also notarized it. On March 28, 2001, the insurance company issued a check in the amount of \$18,000.00 payable to the respondent and the client. On April 3, 2001, the respondent deposited the check into his IOLTA account and did not advise the client that he had received the check. The respondent then intentionally used the funds of his client for his own personal or business purposes or those of other clients or third parties unrelated to his client with intent to deprive his client of her funds and with actual and continuing deprivation resulting.

Between March of 2001 and May of 2002, the client made a number of telephone calls to the respondent who falsely informed her that he was continuing to work on her case.

The respondent's conduct of settling a case without his client's knowledge, his false representations to this client as to the status of her case, and false execution and notarization of his client's signature on a release were in violation of Mass. R. Prof. C. 1.2(a) and 8.4(c). The respondent's intentional misappropriation of client funds with intent to deprive the client of the funds and with actual deprivation resulting was in violation of Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c) and (h).

In a second matter, in July of 2001, a client retained the respondent to represent her with regard to a personal injury claim. In July of 2002, the respondent was temporarily suspended from the practice of law but did not notify his client of his suspension as required by S.J.C. Rule 4:01, § 17. On August 5, 2002, after the respondent was temporarily suspended from the practice of law, the client met with the respondent and authorized him to settle her claim for \$6,900.00. The respondent settled the claim and on August 6, 2002, the respondent received a settlement check in the amount of \$6,900.00 payable to the respondent and to his client. The respondent did not tell his client that he had received the check from the insurance company. The respondent then endorsed his name on the check and, without the client's knowledge or permission, the respondent endorsed or caused to be endorsed her name on the check and misappropriated the funds for his own personal or business purposes or those of other clients or third parties unrelated to the client with intent to deprive the client of her funds and with actual and continuing deprivation resulting.

The respondent's intentional misappropriation of client funds with intent to deprive the client of the funds and with actual deprivation resulting was in violation of Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c) and (h). The respondent's conduct in continuing to practice law while temporarily suspended and in failing to notify the client of his suspension is in violation Mass.R.Prof.C. 5.5(a) and 8.4(d),(h), as well as of Supreme Judicial Court Rule 4:01, § 17, and § 3(1).

In a third matter, in September of 2001, a brother and sister retained the respondent to represent them with regard to personal injury claims. In June of 2002, the clients authorized

the respondent to settle their claims for \$4,200.00 each. On June 12, 2002, the insurance company issued two \$4,200.00 checks, one payable to the respondent and the brother and the second payable to the respondent and the sister. The respondent did not tell the clients that he had received the checks from the insurance company. On June 17, 2002, the respondent endorsed his name on the checks and, without the clients' knowledge or permission, the respondent endorsed or caused to be endorsed their names on the insurance company checks and misappropriated the funds for his own personal or business purposes or those of other clients or third parties unrelated to his clients with intent to deprive each of their funds, with actual and continuing deprivation resulting.

The respondent's intentional misappropriation of client funds with intent to deprive the clients of the funds and with actual deprivation resulting, was in violation of Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c) and (h).

In a fourth matter, the respondent represented a defendant in a civil matter resulting from the issuance of an execution from a local district court. In May of 2000, settlement was reached and the client was to pay the plaintiff \$20,000.00. On May 23, 2000, an order of dismissal nisi was entered by the court. On May 20, 2000, the client provided the respondent with a treasurer's check in the amount of \$20,000.00 intended as payment to the plaintiff. On May 22, 2000, the respondent deposited the check into his IOLTA account. The respondent intentionally used the funds of his client for his own personal or business purposes or those of other clients or third parties unrelated to his client with intent to deprive his client of his funds and with actual and continuing deprivation resulting.

The respondent's intentional misappropriation of client funds with intent to deprive the client of the funds and with actual deprivation resulting was in violation of Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c) and (h). The respondent's failure to transmit to the plaintiff the settlement funds provided by his client was in violation of Mass. R. Prof. C. 1.3, 1.15(b) and 8.4(c) and (h).

In a fifth matter, in May of 1999, the respondent filed a complaint for divorce on behalf of the husband in a probate and family court. On August 31, 2000, the couple sold their home. By agreement of the parties, the respondent withheld \$20,000.00 of the husband's share of the proceeds to be held in escrow. The respondent then intentionally used the client's escrowed funds for his own personal or business purposes or those of other clients or third parties unrelated to the husband with intent to deprive the husband of his funds and with actual deprivation resulting.

On September 18, 2001, the wife's counsel filed a complaint for contempt alleging that the husband owed back child support. On November 28, 2001, the husband and wife entered into a stipulation that the child support arrears would be paid out of the amount the respondent was to be holding in escrow. The respondent failed to forward the funds and the wife's counsel filed a second complaint for contempt. The matter was set for trial on January 16, 2002. At the hearing, the respondent produced two bank checks, neither drawn on his IOLTA account, totaling \$20,000.00, the full amount that was to be held in escrow.

The respondent's intentional misuse of client funds with intent to deprive the client of the funds and with actual deprivation resulting was in violation of Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c) and (h). The respondent's failure to transmit trust funds on behalf of his client was in violation of Mass. R. Prof. C. 1.3, 1.15(b) and 8.4(c) and (h).

On March 3, 2003, the respondent submitted his affidavit of resignation from the practice of law. The respondent admitted in the affidavit that the material facts set forth in Bar Counsel's statement of disciplinary charges would be established by sufficient evidence at a hearing. On April 14, 2003, the Board of Bar Overseers voted to recommend that the affidavit of resignation be accepted and that an order of disbarment be entered. The Court so ordered on May 1, 2003.

<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).

© 2003. Board of Bar Overseers. Office of Bar Counsel. All rights reserved.