

IN RE: STEPHEN L. BLAHA

S.J.C. Order of Term Suspension entered by Justice Cordy on December 9, 2002, with an effective date of January 8, 2003.¹

SUMMARY²

On September 26, 1994, the respondent received a check in the amount of \$10,010.00, payable to the respondent in his capacity as attorney for the administrator of an estate. The check represented return of a holdback in connection with the sale of real estate. On September 27, 1994, the respondent endorsed the check with the intention of mailing it to his client. Unknown to the respondent, on the same day, a staff member instead deposited the check into the respondent's IOLTA account.

The respondent did not maintain an adequate check register for his IOLTA account, did not maintain individual client ledgers, and did not reconcile the IOLTA account or cause it to be reconciled. The respondent also allowed an associate attorney to make deposits to the IOLTA account and to direct the respondent as to what fees the respondent could withdraw against those deposits. The respondent did not supervise the associate and did not confirm that the deposits by the associate into the account were appropriate for deposit. The respondent also did not reconcile funds withdrawn by the respondent at the associate's direction to supporting deposits.

As a result of his inadequate record keeping, the respondent was unaware that he held funds due the client in his IOLTA account. He also made errors as to whose funds comprised the balance in the account and how much was due the firm. Although the funds due to the client remained intact in the IOLTA account for several months after the initial deposit, over time the respondent negligently spent all or most of the funds.

The administrator did not contact the respondent regarding the escrow funds until the spring of 1998. The respondent ultimately returned the funds, plus additional damages, to the administrator.

The respondent's negligent misuse of client funds without intent to deprive but with actual deprivation resulting, his inadequate and improper record keeping, and his failure to make prompt payment of funds due his client was in violation of Canon Six, DR 6-101(A)(3), and Canon Nine, DR 9-102(B)(3), (4).

In a second matter, in September 2000, the respondent was hired to investigate a dispute that a client had with her mortgage lender. On November 24, 2000, the respondent drafted a letter to the client advising that he could not represent her due to a conflict of interest. The client did not receive the respondent's letter.

In November 2000, the client called the respondent's office on a least three occasions to inquire as to the status of her case. The respondent did not return any of the calls. In early December 2000, the client contacted a representative of the mortgage lender directly and was told that the respondent was not representing her due to a conflict. This was the first time that the client knew of the conflict. The client thereafter filed a complaint with Bar Counsel requesting, among other issues, that the respondent return her file.

The respondent did not cooperate with Bar Counsel's investigation of the complaint and on

April 26, 2001, the Board of Bar Overseers issued a subpoena to compel his appearance. On July 19, 2001, the respondent appeared at a subpoena meeting and at that time tendered the file to Bar Counsel for return to his client.

The respondent's failure to adequately communicate with his client was in violation of Mass. R. Prof. C. 1.4. The respondent's failure to timely transmit the client's file and original documents upon request was in violation of Mass. R. Prof. C. 1.16(e). The respondent's failure to cooperate with Bar Counsel was in violation of S.J.C. Rule 4:01, § 3, and Mass. R. Prof. C. 8.4(g).

In a third matter, in February 1996, a client retained the respondent to represent her in a pending divorce proceeding for a fee of \$125.00 per hour. As of September 4, 1996, the client was current on her legal bills.

On January 15, 1997, the client gave the respondent a check for \$1,500.00. This check was understood to be in part for services rendered from September 1, 1996, to the date of the check, and in part for services to be rendered in the future. On September 30, 1997, the client discharged the respondent and he subsequently returned her original file to her without retaining copies.

Between September 1997 and March 1998 the client sent the respondent a number of demands for an accounting of her retainer. The respondent did not provide the client with a final bill. On May 12, 1998, in response to a telephone call from the client, the respondent sent the client a letter indicating that he could not reconstruct his time and services without review of the file that he had previously returned to her. The client declined to provide the respondent with her file or a copy of her file.

The respondent's failure to maintain records of the disposition of a retainer and his failure to promptly render of full accounting regarding a retainer was in violation of Mass. R. Prof. C. 1.15(a), (b).

The respondent was admitted in 1987 and in 1997 received an admonition for failing to represent a client zealously in a domestic matter.

On August 8, 2002, Bar Counsel filed a petition for discipline against the respondent. The respondent failed to file an answer to the petition or otherwise to cooperate in the disciplinary process and, pursuant to S.J.C. Rule 4:01, § 8(3), the allegations were therefore deemed admitted. On October 21, 2002, the Board of Bar Overseers voted to recommend to the court that the respondent be suspended for eighteen months. On December 9, 2002, the Supreme Judicial Court for Suffolk County so ordered.

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.