

IN RE: BRUCE G. ROSEN

S.J.C. Judgment of Resignation & Disbarment entered by Justice Cowin on September 2, 2003.¹

SUMMARY²

The respondent was disbarred as a result of his conduct in three matters.

In the first matter, a client retained the respondent in December 2002, to represent her in a personal injury claim as a result of a motor vehicle accident. Other counsel had previously represented the client on the claim and claimed he was owed fees.

The respondent settled the client's claim for \$3,900 and received a check from the insurer payable to the client, the respondent and prior counsel. On December 18, 2002, without the knowledge or consent of the client or former counsel, the respondent deposited the funds into his IOLTA account after he signed or caused another person to sign the names of the client and former counsel to the back of the check.

After the deposit, the balance in the respondent's IOLTA account was \$3917.79. Without the client's knowledge or consent, or the consent of former counsel, the respondent intentionally expended the settlement funds for his own business or personal purposes. As of December 31, 2002, the account balance had been reduced to \$2.79, without any payments to or on behalf of client.

On or about January 30, 2003, former counsel contacted the Office of the Bar Counsel regarding the respondent's handling of the matter. On or about February 14, 2003, the respondent sent former counsel a check in the amount of \$200.00 in satisfaction of his fees. The respondent did not pay any balance of the settlement funds either to or for the benefit of the client.

By personally signing or causing someone else to sign the client's name and former counsel's name to a settlement check without authorization and then presenting the check to the bank for payment, the respondent violated Mass. R. Prof. C. 8.4 (c) and (e). By intentionally converting trust funds with intent to deprive the client and her former attorney of the use of the funds at least temporarily and with actual deprivation resulting, the respondent violated Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c), (h).

In the second matter, the respondent settled a personal injury claim for a client for \$5,000 in April 2002, and received a check from the insurer. On April 3, 2002, the respondent deposited the check into his IOLTA account. The respondent did not advise the client that the settlement funds had been received.

After the deposit on April 3, 2002, the balance in the IOLTA account was \$9769.05. Without the client's knowledge or consent, the respondent intentionally expended the settlement funds for his own business or personal purposes. As of April 30, 2002, the account balance had been reduced to \$1684.29, without any payments to or on behalf of the client.

The respondent eventually paid \$5,000 to the client by cashier's check on or about January 16, 2003.

By intentionally converting trust funds with intent to deprive the client of the use of the funds

at least temporarily and with actual deprivation resulting, the respondent violated Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c), (h).

In or around March 2001, Bar Counsel opened a file as a result of receipt of a notice of a dishonored check drawn on the respondent's IOLTA account. Bar Counsel received additional notices of dishonored checks drawn on the respondent's IOLTA account on February 22, March 6, March 9, August 5, August 19, and October 11, 2002.

After meeting with Bar Counsel to discuss the allegations against him on November 9, 2001, and September 4, 2002, the respondent opened a new IOLTA account on or about September 26, 2002. Bar Counsel then received additional notices of dishonored checks drawn on the respondent's new IOLTA account on December 3, 2002, March 18 2003, and April 28, 2003.

By failing to maintain client funds in his IOLTA account, and failing to maintain adequate financial records regarding those funds, the respondent violated Mass. R. Prof. C. 1.15 (a) and (d).

On June 30, 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 discipline would be established by sufficient evidence at a hearing. On July 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 September 2, 2003.

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.
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