

IN RE: WILLIAM E. O'KEEFE

S.J.C. Order of Term Suspension entered by Justice Spina on March 18, 2005, with an effective date of April 17, 2005.<sup>1</sup>

SUMMARY<sup>2</sup>

The respondent is a sole practitioner admitted to practice in 1983. He stipulated to the facts charged in a three-count petition for discipline.

Count One of the petition for discipline arose from the respondent's use between February 2000 and September 2002 of a firm name that consisted of his name and the name of his associate as a professional corporation. The associate was an employee but not a shareholder in the firm. The respondent's use of a firm name implying the existence of a professional corporation when it was not incorporated as such and when the associate was not a shareholder was in violation of Mass. R. Prof. C. 7.1 and 7.5.

Count Two arose from the respondent's representation of a client who suffered personal injuries in an automobile collision in 1998 while a passenger in a car. The client's case settled for \$75,000 in February 2000. The respondent deposited the settlement check to his IOLTA account.

After properly paying his own fees, money due to two third parties, and the client, the respondent withheld \$5,067.25 in his IOLTA account against a claimed lien by the client's automobile insurer. By letter to the insurer dated February 18, 2000, the firm disputed the insurer's claim.

In December 2000, the respondent intentionally withdrew from his IOLTA account the funds withheld for this lien, commingled the funds in his business account, and used the funds for his own purposes.

In about June 2001, the respondent learned that the insurer was not pursuing its claim for a lien on the client's funds and that the funds should be released to the client. The respondent deposited \$5,200 of personal funds to his IOLTA account on June 29, 2001 and issued a check to the client for \$5,067.25.

The respondent's conduct in withdrawing the client's funds from the IOLTA account, commingling the client's funds with his own funds in his business account, and intentionally misusing the client's funds for his own purposes, without intent to deprive the client of funds and with no deprivation resulting, violated Mass. R. Prof. C. 1.15 (a), (b), and (d) and 8.4 (c).

Count Three arose from the respondent's representation of a woman and her husband in their respective claims for damages and loss of consortium resulting from personal injuries suffered in an automobile collision in January 2000.

In November 2000, the clients' case settled for \$20,000, the other driver's policy limits. The clients' union had an outstanding lien in the amount of \$21,643.61 on the recovery. By letter to the union dated November 6, 2000, the firm requested that the union agree to accept fifty percent of the injured client's net recovery to satisfy the lien.

The respondent received two checks dated November 10, 2000, one for the injured woman in the amount of \$15,000 and the other for her husband in the amount of \$5,000. The respondent deposited the checks to his IOLTA account. After proper payment of his fee, the respondent held the balance of \$13,054.25 in his IOLTA account pending resolution of the union's lien.

In December 2000, the respondent intentionally withdrew from his IOLTA account the funds withheld for this lien, commingled the trust funds in his business account, and used these funds for his own purposes

On January 24, 2001, the union released its lien in return for a payment of \$5,460. The respondent deposited \$14,000 of personal funds into his IOLTA account and paid \$5,460 to the union, \$4,260.92 to the injured client, and \$3,333.33 to her husband.

The respondent's conduct in intentionally withdrawing the clients' funds from the IOLTA account, commingling the clients' funds with his own funds in the business account and intentionally misusing the clients' funds for his own purposes, without intent to deprive any client of funds and with no deprivation resulting, violated Mass. R. Prof. C. 1.15(a), (b), and (d) and 8.4(c) and (h),

This matter came to that attention of bar counsel pursuant to Mass. R. Prof. C. 8.3. The respondent restored all funds to the IOLTA account, no client or third party was deprived of funds, and no client complained.

The matter came before the Board of Bar Overseers on a stipulation of facts, disciplinary violations and a joint recommendation for a nine-month suspension from the practice of law. On January 10, 2005, the Board voted to accept the stipulation and to recommend the agreed-upon disposition to the Supreme Judicial Court. The Court so ordered on March 18, 2005.

<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).

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