

IN RE: DAVID HITCHMAN

S.J.C. Order of Term Suspension entered by Justice Botsford on October 15, 2008, with an effective date of November 14, 2008.<sup>1</sup>

SUMMARY<sup>2</sup>

In 2007, the respondent maintained an IOLTA account on which he was the sole signatory and for which he had sole responsibility. The respondent did not have an office operating account.

The respondent's primary work was as counsel assigned by the Committee For Public Counsel Services (CPCS) in criminal matters. In May 2007, the respondent arranged with CPCS to have payments for his fees deposited directly to his IOLTA account. Between May 25, 2007, and June 1, 2007, the CPCS wire-transferred a total of \$15,584.40 into the respondent's account.

Between June 1, 2007, and July 31, 2007, the respondent drew checks on his IOLTA account made out "Cash," or "Eastern Bank." By August 1, 2007, the respondent's IOLTA account was in overdraft in the amount of \$632.25.

On August 9, 2007, bar counsel received a notice of six dishonored checks drawn on the respondent's IOLTA account. Between August 13, 2007, and October 23, 2007, bar counsel twice requested that the respondent provide a full explanation for the dishonored checks and produce of records for his IOLTA account. The respondent received the letters in due course, but he intentionally failed without good cause to respond to the requests for information.

On October 23, 2007, the respondent requested a transfer to inactive status. On November 16, 2007, bar counsel filed with the Supreme Judicial Court for Suffolk County a petition for the respondent's administrative suspension from the practice of law pursuant to S.J.C. Rule 4:01, § 3, based on the respondent's failure to respond to bar counsel's requests for information in the course of an investigation. On November 20, 2007, the respondent was administratively suspended from the practice of law.

The administrative suspension order provided that, if the respondent were not reinstated within thirty days, he was required to comply with Supreme Judicial Court Rule 4:01, §§ 17(1) and (5), including filing an affidavit with bar counsel and with the Court certifying that he had fully complied with the provisions of the order of suspension. The respondent was not reinstated within thirty days of the entry of the Court's order of administrative suspension. The respondent did not comply fully with the requirements of S. J. C. Rule 4:01, § 17.

On May 27, 2008, bar counsel filed a petition for discipline alleging that the respondent's deposit of personal funds into his IOLTA account and his payment of checks from that account to "cash" or to Eastern Bank violated Mass R. Prof. C. 1.15(b)(2) and (e)(3) and that his failure without good cause to respond to bar counsel's letters and requests for information and to comply with the terms of his suspension from the practice of law violated S. J. C. Rule 4:01, §§ 3 and 17, and Mass. R. Prof. C. 3.4(c), 8.1(b), and 8.4(d), (g), and (h). The respondent did not file an answer to the petition for discipline, and the allegations in the petition were deemed admitted pursuant to S.J.C. Rule 4:01, § 8(3).

On July 15, 2008, bar counsel filed a memorandum with the Board of Bar Overseers

recommending that the respondent be suspended from the practice of law for one year and one day. The respondent did not file a memorandum.

On August 11, 2008, the Board of Bar Overseers voted to file an Information with the Supreme Judicial Court recommending that the respondent be suspended from the practice of law for one year and one day. On October 15, 2008, the Supreme Judicial Court for Suffolk County (Botsford, J.) entered an order suspending the respondent from the practice of law for one year and one day effective thirty days after the entry of the order.

#### FOOTNOTES:

<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 filed with the Supreme Judicial Court.

Please direct all questions to [webmaster@massbbo.org](mailto:webmaster@massbbo.org).

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