

IN RE: NORA ZAMORY TOLINS

S.J.C. Order of Indefinite Suspension entered by Justice Ireland on January 24, 2008.¹

SUMMARY²

The respondent received an indefinite suspension from the practice of law for intentionally misusing trust funds with temporary deprivation, negligently misusing trust funds, and failing to prepare and maintain required accounts and records.

In count one of this matter, commencing at least as of May 2005, and continuing at least through May 2006, the respondent failed to prepare and maintain a check register as required by Mass. R. Prof. C. 1.15(f)(1)(B); failed to prepare and maintain individual client records and ledgers, as required by Mass. R. Prof. C. 1.15(f)(1)(C); failed to prepare and maintain reconciliation reports at least every sixty days as required by Mass. R. Prof. C. 1.15(f)(1)(E); and failed to retain account records as required by Mass. R. Prof. C. 1.15(f)(1)(F).

In count two of this matter, the client retained the respondent to represent her in an action for injuries sustained in a motor vehicle accident. In May 2005, the respondent settled the client's claim for \$20,000. In June 2005, the respondent deposited the client's \$20,000 settlement check into her IOLTA account, withdrew a fee of \$6,666.67, and paid the client \$13,268.34. However, the client did not attempt to negotiate the check for approximately six months.

Between June 2005 and December 2005, the respondent negligently misused the client's funds for her own business and personal uses. On or about December 13, 2005, the client attempted to negotiate the settlement check, but was unable to do so due to insufficient funds in the respondent's IOLTA account. After the client informed the respondent of the returned check, the respondent told the client that she would "cover" the check. The bank notified the respondent and Bar Counsel that the client's check was returned for insufficient funds.

On December 19, 2005, the respondent received and deposited to her IOLTA account a settlement check for \$20,000 payable to a different client. Prior to the deposit of the second client's settlement check, the balance in the respondent's IOLTA account was only \$410.25. This deposit brought the balance to \$20,410.25.

On December 20, 2005, the respondent withdrew \$13,300 from the IOLTA account and purchased a bank check to replace the dishonored check she issued to the first client. As a result, the IOLTA account balance was reduced to \$7,110.25.

In count three, the second client retained the respondent to pursue a claim for injuries sustained in a motor vehicle accident. In December 2005, the respondent settled the second client's claim for \$20,000, and on December 19, 2005, deposited to her IOLTA account a settlement check for \$20,000 payable to the second client. On December 20, 2005, the respondent intentionally misused the second client's funds when she withdrew \$13,300 for the purpose of purchasing a bank check payable to the first client.

On January 17, 2006, the respondent deposited, or caused to be deposited, personal funds to the IOLTA account to make up for the shortfall. By IOLTA check dated January 19, 2006, the

respondent paid the second client \$11,419.98 due from the settlement. The second client was temporarily deprived of funds from December 20, 2005, until January 19, 2006.

In count four, a third client retained the respondent to pursue a personal injury claim. The respondent settled the third client's case and in August and September 2005, the respondent deposited to her IOLTA account two settlement checks totaling \$27,500 on behalf of the third client. From these proceeds, the respondent withheld \$11,995.21 to pay the client's creditor. However, by December 14, 2005, the IOLTA account balance had been reduced to \$410.28 without payment to the client's creditor.

Between September 7, 2005, and December 14, 2005, as a result of inadequate recordkeeping and failure to reconcile the IOLTA account, the respondent negligently misused funds due to the third client's creditor, for the respondent's own personal or business purposes or for unrelated clients. On January 17, 2006, the respondent deposited, or caused to be deposited, personal funds to her IOLTA account to make up for the shortfall. On or about January 17, 2006, the respondent paid \$11,995.21 to third client's creditor.

The respondent's negligent misuse of trust funds belonging to the first client in her IOLTA account violated Mass. R. Prof. C. 1.15(b)(1). By misappropriating funds belonging to the second client to pay the first client, the respondent intentionally misused trust funds belonging to the second client causing the second client to suffer temporary deprivation of funds in violation of Mass. R. Prof. C. 1.15(b)-(d) and Mass. R. Prof. C. 8.4(c) and (h). The respondent's conduct in negligently misusing the third client's funds designated to pay the client's creditor in her IOLTA account violated Mass. R. Prof. C. 1.15(b)(1).

The respondent has made full restitution to the clients in counts two and three and to the third client's creditor in count four.

In mitigation, the respondent suffered from significant mental health problems during the relevant time period from 2005 through 2006. The respondent began treatment for depression in May 2006, and she is currently in treatment. In further mitigation, respondent's husband suffered from serious health problems during the relevant period of time. In May 2006, the respondent closed her practice and has had no clients or cases since that date.

On November 27, 2007, the parties filed a stipulation and jointly recommended an indefinite suspension from the practice of law. On December 10, 2007, the Board of Bar Overseers voted unanimously to recommend an indefinite suspension from the practice of law. The Court so ordered on January 24, 2008.

FOOTNOTES:

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 Supreme Judicial Court.