

IN RE: JOHN UDO

S.J.C. Judgment of Disbarment entered by Justice Spina on October 16, 2008.¹

SUMMARY²

The respondent was admitted to the Bar of the Commonwealth on December 29, 1995. On May 6, 2008, the respondent was administratively suspended from the practice of law based on his failure to cooperate with four investigations by bar counsel generally alleging neglect of immigration matters. The respondent took no action to be reinstated to the practice of law. Since his suspension, the respondent has abandoned his office and bar counsel was required to obtain the appointment of a commissioner.

On June 27, 2008, bar counsel filed a ten-count petition for discipline against the respondent. Count One alleged intentional misuse of client funds as follows.

In or around May of 2002, a client hired the respondent to represent him in his capacity as a potential administrator of the estate of his mother. The mother had died intestate on September 22, 1993, survived by the client and six other children. Estate administration was necessary to sell the mother's house, the only asset of the estate. The respondent obtained the appointment of the client as administrator of the estate, obtained a license to sell, negotiated resolution of a tax lien filed by the City of Boston, negotiated a purchase and sale agreement, and attended the closing. The respondent also resolved allocation of the sale proceeds among the client and his siblings, the heirs of the estate, and agreed to provide the net proceeds from the sale to the client for distribution to the heirs pursuant to their agreement.

On October 3, 2002, the respondent deposited a \$231,250.73 check, representing the net sale proceeds realized from the sale of the property, into his IOLTA account. After the deposit, the balance in the IOLTA account was \$231,310.08. The check was the only item the respondent deposited into his IOLTA account in October, November and December of 2002.

Between October 4, 2002 and December 31, 2002, the respondent wrote the client six (6) checks totaling \$100,000 from the estate funds in the IOLTA account. The client agreed that the funds could be distributed in increments on an as needed basis. Between October 4, 2002 and December 31, 2002, the respondent wrote fifteen (15) checks payable to himself from the estate funds in the IOLTA account totaling \$98,500. Except to the extent that the respondent was owed legal fees, the respondent intentionally misused the \$98,500 for his own personal or business purposes unrelated to the client or the estate.

Between October 4, 2002 and January 2, 2003, the respondent wrote seven (7) checks totaling \$20,100 from the IOLTA account to unrelated clients in connection with their legal matters. The respondent intentionally misused the estate funds to fund these payments. Between January 22, 2003 and May 12, 2005, the respondent wrote the client twenty-nine (29) checks totaling \$62,500 from the IOLTA account. These payments to the client were funded by cash the respondent deposited into the IOLTA account and by unrelated client funds on deposit in the account. During this time period the respondent also wrote the client three (3) checks totaling \$3,500 from his operating account.

To date, the client has received \$166,000 of the \$231,250.73 in estate funds that the respondent received and the respondent has retained \$65,720.73 despite demand by the client for payment of the balance owed. The respondent has not provided the client with any accounting of his receipt, maintenance and disbursement of the estate funds. The respondent did not maintain any contemporaneous records of his time spent on the estate and has not provided the client with any itemized bills for his services. The respondent claimed entitlement to \$65,720.73 in legal fees but at all times knew that the client disputed his entitlement to that fee.

The respondent's commingling of personal and business funds with client funds in his IOLTA account violated Mass. R. Prof. C. 1.15(b) and 8.4(h). The respondent's intentional misuse of estate sale proceeds for unrelated client and other business and personal purposes, with continuing deprivation resulting to the client, violated Mass. R. Prof. C. 1.15(b) and (c). The respondent's failure to promptly disburse funds due to the client that the client was entitled to receive violated Mass. R. Prof. C. 1.2(a), 1.4, 1.15(c) and 8.4(h). The respondent's failure to promptly restore disputed legal fees to his client trust account violated Mass R. Prof. 1.15(b)(2).

Other counts in bar counsel's petition alleged failure to safeguard advanced filing fees paid, extensive commingling, neglect of clients and legal matters, at least one instance of practicing law after notification of his administrative suspension, failure to return client files, failure to return unspent filing fees and other misconduct.

The respondent failed to file an answer to the petition in conformance with the requirements of the Rules of the Board of Bar Overseers Section 3.15(d) and failed to participate in the proceeding. Pursuant to S.J.C. Rule 4:01, § 8(3), the allegations were therefore deemed admitted. On September 8, 2008, the Board of Bar Overseers voted to recommend to the Court that the respondent be disbarred, and on October 15, 2008, the Supreme Judicial Court for Suffolk County ordered the respondent's disbarment, effective immediately.

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 filed with the Supreme Judicial Court.