

IN RE: LAWRENCE P. MCLAUGHLIN

S.J.C. Order of Term Suspension entered by Justice Cordy on November 5, 2008, with an effective date of December 5, 2008.<sup>1</sup>  
(S.J.C. Judgment of Reinstatement entered by Justice Cordy on April 27, 2010.)

SUMMARY<sup>2</sup>

The respondent was suspended for one year for misconduct set forth in a two-count petition for discipline. In Count One, the respondent negligently misused client funds, and in Count Two, he intentionally misused client funds. In both matters, there was no actual deprivation resulting, and the funds have been restored.

In Count One, the respondent represented the executor of an estate and in March 2005 was confirmed as trustee of a related trust. The respondent did not open an individual trust account for the trust as required, and in August 2005, the executor transferred the estate's remaining funds to the respondent's IOLTA account. By November 2005, after appropriate disbursements, the respondent should have been holding at least \$285,812 for the beneficiary of the trust.

In 2005 and 2006, the respondent failed to maintain a chronological and accurate check register for his IOLTA account, failed to maintain individual client ledgers or a ledger for bank charges, failed to maintain copies of deposit tickets and checks with information identifying the proper source or client, and failed to withdraw earned fees from the account. In addition, the respondent failed to reconcile his trust account at least every sixty days or to prepare and maintain reconciliation reports.

As a result, the respondent did not know the exact amount of funds held for each client or the exact amount of earned legal fees that he had in his IOLTA account. In November and December 2005, the respondent negligently misused a portion of the beneficiary's funds for unrelated personal or business purposes. By late December 2005, the shortfall relative to the beneficiary's funds in the account was \$18,800.97. In January 2006, the respondent disbursed \$10,000 to the beneficiary and transferred \$275,812 from his IOLTA account to Fidelity Investments to open a mutual fund account for the beneficiary. Due to the shortfall, this transfer was funded in part by the funds of an unrelated client (Count Two).

The respondent's negligent misuse of the beneficiary's funds for unrelated personal or business purposes was in violation of Mass. R. Prof. C. 1.15(b). By failing to maintain complete records of his receipt, maintenance, and disposition of all trust funds and failing to prepare and retain reconciliation reports for all trust funds in his IOLTA account, the respondent's recordkeeping was in violation of Mass. R. Prof. C. 1.15(f). By failing to promptly withdraw earned fees, thereby commingling personal and client funds in his IOLTA account the respondent violated Mass. R. Prof. C. 1.15(b)(2). By depositing funds to be held long-term as Trustee to his pooled IOLTA account instead of to an individual interest-bearing trust account, the respondent violated Mass. R. Prof. C. 1.15(e)(5). By issuing checks that created a negative balance for another client in his IOLTA account, the respondent violated Mass. R. Prof. C. 1.15(f)(E)(iii).

In Count Two, the respondent succeeded his father as trustee of a trust in 1993. Under the

terms of the trust, \$25,000 was to be deposited into an interest bearing account, and every year the trustee was to use the annual interest earned "for the purchase of Christmas presents for the needy children of Athol." From 1993 to 2005, the respondent maintained the trust's money in successive twelve-month certificates of deposit. Every December, the respondent allowed the current year's certificate of deposit to be automatically renewed, withdrew the interest that had been earned that year, and sent checks equal to that amount to the Athol Daily News Santa Fund and/or the Salvation Army Christmas Drive.

In December 2005, the respondent was aware that he did not have sufficient money in his IOLTA account to fully fund the transfer of the beneficiary's funds (Count One) to the Fidelity mutual fund account. The respondent therefore cashed the certificate of deposit (Count Two) and deposited the proceeds (over \$25,000) into his IOLTA account to cover the shortfall that existed in that account. The respondent sent an IOLTA check in the amount of \$513, representing interest earned on the certificate of deposit in 2005, to the Athol Daily News Santa Fund.

In January 2006, when the respondent transferred the \$275,812 from his IOLTA account to the Fidelity mutual fund account (Count One), the transfer was funded, in part, with funds from the cashed certificate of deposit (Count Two). In transferring these funds to Fidelity, the respondent intentionally misused the funds belonging to the trust for purposes unrelated to that trust.

In December 2006, the respondent sent a check in the amount of \$513 to the Athol Daily News Santa Fund. In May 2007, the respondent purchased with his own monies a certificate of deposit in the amount of \$25,200 on behalf of the trust (Count Two) and continues to hold the certificate of deposit.

The respondent's intentional misuse of trust funds for unrelated purposes was in violation of Mass. R. Prof. C. 1.15(b) and 8.4(c) and (h).

The respondent was admitted to the bar of the Commonwealth on June 23, 1993. In 2003, the respondent received an admonition for failing to file suit on behalf of a client before the statute of limitations expired. *Admonition No. 03-32*, 19 Mass. Att'y Disc. R. 577 (2003).

The matter came before the board on a stipulation of facts and disciplinary violations and a joint recommendation that the respondent be suspended from the practice of law for one year. The parties also stipulated that reinstatement would be conditioned upon attending, prior to reinstatement, the trust account class offered by bar counsel and, upon reinstatement, the respondent would abide by accounting conditions for two years, as detailed in the agreement with bar counsel. On September 8, 2008, the board voted to recommend that the Supreme Judicial Court accept the parties' stipulation and joint recommendation for discipline. On November 5, 2008, the Court so ordered.

#### 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.