

IN RE: MICHAEL M. KRAMER

S.J.C. Judgment Accepting Affidavit Of Resignation In Lieu Of An Indefinite Suspension entered by Justice Botsford on June 23, 2009, with an effective date of July 23, 2009.¹

SUMMARY²

This matter came before the Supreme Judicial Court for Suffolk County on an affidavit of resignation and a recommendation of the Board of Bar Overseers that the affidavit of resignation be accepted in lieu of indefinite suspension. In the affidavit of resignation, the respondent admitted that bar counsel could prove the following by a preponderance of the evidence and agreed not to contest the following facts in any bar discipline, admission, or reinstatement proceeding.

From July 1, 2004, to the present, the respondent failed to keep records of funds in his IOLTA account as required by Mass. R. Prof. C. 1.15. Among other things, the respondent did not keep a proper check register (in violation of Mass. R. Prof. C. 1.15(f)(1)(B)), records of deposits (in violation of Mass. R. Prof. C. 1.15(f)(1)(F)(ii) and (iii)), and individual client ledgers (in violation of Mass. R. Prof. C. 1.15(f)(1)(C)), and he did not reconcile the account at least every sixty days (in violation of Mass. R. Prof. C. 1.15(f)(1)(E)).

From January 1, 2006, to the present, the respondent made several deposits of personal funds into his IOLTA account and issued checks from the IOLTA account to pay personal business expenses unrelated to any client, in violation of Mass. R. Prof. C. 1.15(b)(2) and (e)(4). The respondent did not keep any record of these deposits or withdrawals, in violation of Mass. R. Prof. C. 1.15(b)(2).

In three separate matters, the respondent converted the funds of five clients, causing temporary deprivation. In the first matter, in November of 2006, the respondent received two checks totaling \$50,000 in settlement of an estate dispute for two clients. The respondent signed the clients' names to their checks without their authorization. He deposited one client's funds into his IOLTA account and converted those funds. He converted the other client's funds by cashing the check without ever depositing them into his IOLTA account. In April of 2007, the respondent paid the clients back the funds he converted.

In June of 2007, the respondent deposited funds received on behalf of two other clients in the amount of \$38,125 into his business operating account instead of his IOLTA account. The respondent later disbursed the funds on behalf of these clients pursuant to an escrow agreement.

In July of 2007, the respondent received \$25,750 on behalf of a fifth client. The respondent did not notify the client of the receipt of the funds and did not deposit the funds into a trust account. The respondent converted the funds by depositing them into his business operating account and intentionally misusing the funds. The respondent did not intend to permanently deprive the client of the funds and he later made payments on behalf of the client in accordance with a settlement statement.

The respondent's conduct in failing to notify his clients of receipt of funds on their behalf and promptly to turn over to the clients the funds due them violated Mass. R. Prof. C. 1.4 and

1.15(c). The respondent's conduct in signing the names of two clients to checks without authorization and in converting clients' funds violated Mass. R. Prof. C. 8.4(c) and (h). The respondent's conduct in failing to deposit client funds in a trust account violated Mass. R. Prof. C. 1.15(b)(1). The respondent's conduct in making distributions from his IOLTA account that created a negative balance on behalf of a client violated Mass. R. Prof. C. 1.15(f)(1)(C).

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.

Please direct all questions to webmaster@massbbo.org.

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