

IN RE: JOHN F. LAMOND

S.J.C. Judgment of Disbarment entered by Justice Gants on September 23, 2010.¹

SUMMARY²

The respondent resigned from the practice of law pursuant to S.J.C. Rule 4:01, § 15 and was disbarred, for the following conduct.

Prior to April 2009, the respondent was engaged in the practice of law concentrating in residential real estate closings. From before April 2004 to April 2009, the respondent maintained a real estate IOLTA account that he used for the deposit of funding proceeds and the payment of disbursements required to complete real estate transactions for which he was settlement agent. The account was high volume, often in excess of 600 debits and credits each month.

Beginning before April 2004 and continuing until about the end of April 2009, the account had a substantial deficit and was repeatedly overdrawn with negative balances. The respondent received monthly bank statements that debited the account for each item overdrawn and specified the amount of each negative balance. As a result of his repeated receipt of monthly bank statements showing negative and low balances, the respondent knew that his account was short. In order to address the shortages, the respondent periodically deposited into the account personal or business funds unrelated to any specific closing transaction, often including funds in excess of \$100,000 per deposit.

The respondent's conduct of commingling personal or business funds in the account was in violation of Mass. R. Prof. C. 1.15(b), and the respondent's conduct in disbursing checks from the account that when paid created negative balances was in violation of Mass. R. Prof. C. 1.15(f)(1)(C).

In a second matter, on April 12, 2004, the respondent received a bank check from a client in the amount of \$50,000 to hold in escrow while the client completed the purchase of real estate. The respondent deposited the check into his IOLTA account and thereafter intentionally misused the funds so deposited for personal or business purposes unrelated to the purpose of the escrow.

On divers times in 2005 through 2008, the client made demand on the respondent for return of the funds because the contemplated sale fell through. On September 5, 2008, the respondent sent to the client a check in the amount of \$9,000 drawn on his IOLTA account, which the client cashed. After September 5, 2008, the client further demanded that the respondent return the balance of the funds and interest, but the respondent has not returned any further portion of the balance.

The respondent's intentional misuse of funds, with deprivation resulting and continuing, was in violation of Mass. R. Prof. C. 1.15(b) and Mass. R. Prof. C. 8.4(c) and (h).

In a third matter, on November 7, 2008, the respondent was settlement agent for a refinance transaction on behalf of a lender. The respondent was obligated to pay off from the funding proceeds a recorded and outstanding mortgage in the amount of \$383,526. On November 13,

2008, the respondent received the loan proceeds in an amount sufficient to pay the mortgage. The respondent intentionally failed to timely pay off the mortgage as he was obligated to do and intentionally misused the loan proceeds for personal or business purposes unrelated to the transaction. On or before January 23, 2009, the respondent made restitution.

The respondent's failure to promptly pay off the mortgage as he was obligated to do was in violation of Mass. R. Prof. C. 1.15(c). The respondent's intentional misuse of funds with actual deprivation resulting, at least temporarily, was in violation of Mass. R. Prof. C. 1.15(b) and (c) and Mass. R. Prof. C. 8.4(c) and (h).

On September 21, 2009, the Supreme Judicial Court for Suffolk County entered an order of administrative suspension against the respondent for his failure to cooperate with an investigation of bar counsel. The respondent failed without good cause to comply with the terms of his suspension and further failed to respond to five additional complaints filed with bar counsel.

After his administrative suspension, the respondent held himself out as an attorney on the internet and represented two clients in loan modification negotiations. He failed to notify either of his suspension.

The respondent's failure to timely respond to complaints filed against him without good cause was in violation of Mass. R. Prof. C. 8.4(g) and S.J.C. Rule 4:01, sec. 3. The respondent's failure to comply with the terms of the order of administrative suspension was in violation of Mass. R. Prof. C. 8.4(d) and (h). The respondent's conduct of publicly holding himself out as an attorney and practicing law after suspension was in violation of Mass. R. Prof. C. 5.5(a) and 8.4(c).

On August 27, 2010, the respondent filed an affidavit of resignation pursuant to S.J.C. Rule 4:01, § 15. On September 13, 2010, the Board voted to recommend that the affidavit of resignation be accepted and that an order of disbarment be entered forthwith. On September 24, 2010, the Supreme Judicial Court for Suffolk County so ordered.

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.