

IN RE: MICHAEL G. WILSKER

S.J.C. Order of Term Suspension entered by Justice Spina on December 11, 2009, with an effective date of January 11, 2010.¹
(S.J.C. Judgment of Reinstatement entered by Justice Spina on March 16, 2010.)

SUMMARY²

This matter came before the Supreme Judicial Court for Suffolk County on a stipulation of the parties and a recommendation of the Board of Bar Overseers that the stipulation be accepted. In the stipulation, the respondent admitted to the following facts.

From and after January 1, 2006 the respondent maintained an IOLTA account at TD Banknorth. He opened another IOLTA account at the bank on July 1, 2007. The respondent failed to keep records of funds in his IOLTA accounts as required by Mass. R. Prof. C. 1.15. Among other things, the respondent did not keep proper check registers in violation of Mass. R. Prof. C. 1.15(f)(1)(B), individual client ledgers in violation of Mass. R. Prof. C. 1.15(f)(1)(C), individual ledgers for bank charges in violation of Mass. R. Prof. C. 1.15(f)(1)(D), and he did not reconcile the account at least every sixty days in violation of Mass. R. Prof. C. 1.15(f)(1)(E).

In February 2006, the respondent represented a buyer in a real estate closing. The respondent held back \$96,000 for tax purposes, which he deposited in his IOLTA account until he received further instructions from the seller's attorney. In the ensuing delay in receiving those instructions, the respondent intentionally misused \$17,500 of the funds to pay his own personal expenses. He made complete restitution of the funds approximately four months later and before the funds were due to be paid.

The respondent's failure to maintain the escrow funds in a trust account and his intentional misuse of escrow funds violated Mass. R. Prof. C. 1.15(b)(1) and 8.4(c) and (h). The respondent's conduct in disbursing checks from the IOLTA account that created a negative balance for an individual client matter violated Mass. R. Prof. C. 1.15(f)(1)(C).

The parties stipulated to a suspension from the practice of law for nine months, with two months of actual suspension and seven months suspended for one year. As conditions of the suspension, the respondent was required to take and pass the MPRE; to attend a trust account training program; to maintain records in accordance with the requirements of Mass. R. Prof. C. 1.15; and to provide all reconciliation reports, plus other account records as requested, to bar counsel for one year.

On October 19, 2009, the Board of Bar Overseers voted to accept the parties' stipulation and recommendation for discipline. The matter came before the Supreme Judicial Court for Suffolk County and, on December 11, 2009, the county court, Spina, J, entered an order suspending the respondent for nine months, with seven months suspended for one year subject to the conditions set forth above.

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.