

IN RE: STEPHEN J. DURKIN

S.J.C. Order of Term Suspension entered by Justice Cowin on January 29, 2010.¹
(S.J.C. Judgment of Reinstatement entered by Justice Lenk on June 1, 2012.)

SUMMARY²

From November 5, 2006 to August 15, 2007, the respondent maintained an IOLTA account, but he did not maintain either a personal or business account in violation of Mass. R. Prof. C. 1.15(f)(2). The respondent deposited personal funds into his IOLTA account in violation of Mass. R. Prof. C. 1.15(b) and issued checks from his IOLTA account to pay his own obligations in violation of Mass. R. Prof. C. 1.15(f)(2). On ten occasions between April 25, 2007, and August 15, 2007, the respondent wrote a check knowing that he did not have sufficient personal funds in the IOLTA account to cover the check and that the check would be dishonored or covered as an overdraft by the bank. This conduct was dishonest and violated Mass. R. Prof. C. 8.4(b), (c), and (h).

The respondent's records for his IOLTA account did not comply with the requirements of Mass. R. Prof. C. 1.15. The respondent did not keep check registers with a client identifier of every transaction, a list of every transaction, and a running balance after every transaction; individual client ledgers for each client matter listing each transaction and running balance for each client matter; and ledgers of his personal funds in the account to cover reasonably expected bank charges. The respondent also did not perform a three-way reconciliation of his IOLTA account at least every sixty days.

The respondent was administratively suspended on April 26, 2007 for failure to pay his registration fees. The order of administrative suspension required the respondent to close every IOLTA and other trust account and provide an affidavit to the Office of Bar Counsel certifying his compliance with all of the provisions of S.J.C. Rule 4:01, § 17. The respondent did not timely close his IOLTA account or timely submit his compliance forms. The respondent's failure to comply with the order of administrative suspension and the provisions of S. J. C. Rule 4:01, § 17, violated Mass. R. Prof. C. 3.4(c) and 8.4(d).

The parties stipulated to the facts and rule violations set forth above and agreed to a suspension from the practice of law for one year plus one day, retroactive to the date the respondent complied with the order of administrative suspension, namely January 9, 2008. On January 11, 2010, 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 on January 21, 2010. On January 29, 2010, the county court, Cowin, J, entered an order suspending the respondent for one year and one day, effective retroactively to January 9, 2008.

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.