

IN RE: JOSEPH K. CHANCELLOR

NO. BD-2011-136

S.J.C. Order of Indefinite Suspension entered by Justice Spina on January 25, 2012.¹

SUMMARY²

The respondent was admitted to the Bar of the Commonwealth on October 25, 2002. From at least January 2007 through August 2010, the respondent failed to maintain records for his IOLTA account in accordance with Mass. R. Prof. C. 1.15. The respondent kept personal funds in the account, issued checks made payable to his creditors from the account, made withdrawals to “cash,” and failed to reconcile the account. This conduct violated Mass. R. Prof. C. 1.15(b), 1.15(e)(3) and (5), and 1.15(f)(1)(B-E).

In March 2007, the respondent agreed to represent a client on a personal injury claim on the basis of a one-third contingent fee. The respondent settled the client’s claim for \$30,000 in October 2007 without consulting the client about the settlement amount or receiving the client’s consent to the settlement, and he endorsed his client’s name to the settlement check without authority from the client or notifying the client that he had received funds on the client’s behalf. The respondent took his fee of \$10,000 without prior or contemporaneous notice to the client in violation of Mass. R. Prof. C. 1.15(d)(2). Between October and November 2007, the respondent converted the client’s \$20,000 share of the settlement to his own use.

The respondent knew that the client was leaving the country in January 2008 and that she returned in June. In June 2008, the respondent sent an e-mail to the client in which he

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.

falsely represented that he had made progress on her case while she was away and expected to have her settlement payment by August. On July 31, the respondent sent the client another e-mail in which he misrepresented that her settlement check was “in processing and should be ready soon.” The respondent sent the client a check drawn on his IOLTA account in mid-September, using his personal funds in the account to make this payment.

In January 2009, bar counsel began an investigation of the respondent’s conduct. In the course of the investigation, bar counsel interviewed the respondent under oath and asked him to explain the timing of his delivery of the funds to the client. The respondent falsely testified that the client was out of the country and could not be contacted at the time he settled her case and that she did not return to the United States until September 2008, when he was able to pay her.

By settling the client’s case and signing her name to a release without her knowledge or specific authority, the respondent violated Mass. R. Prof. C. 1.2(a), 1.4(a) and (b), and 8.4(c) and (h). By failing to inform the client that he had settled her claim and received settlement funds on her behalf, the respondent violated Mass. R. Prof. C. 1.1, 1.4(a) and (b), and 1.15(c). By failing promptly to turn over the funds due the client, the respondent violated Mass. R. Prof. C. 1.15(c). By intentionally misappropriating the client’s settlement funds, the respondent violated Mass. R. Prof. C. 1.15(b), (c), and (f)(1)(C), and 8.4 (c) and (h). By falsely representing the status of her case to the client in 2008, the respondent violated Mass. R. Prof. C. 1.4(a) and (b), and 8.4(c). By making intentionally false statements to bar counsel during his interview under oath, the respondent violated Mass. R. Prof. C. 8.1(a), and 8.4 (c), (d), (g), and (h.)

In July 2008, the respondent negotiated a settlement of an auto accident case for a minor for a total amount of \$75,000. The settlement provided for an immediate payment of \$35,000 with the balance applied to purchase an annuity that would be paid upon the minor's majority. The respondent deposited the settlement funds into his IOLTA account.

From the settlement, the respondent was entitled to receive \$25,000 as a fee. The respondent did not promptly withdraw these funds from the IOLTA account, but instead issued checks from the account directly to creditors and to pay amounts he owed to other clients. The respondent also paid \$10,000 in cash to the client's mother in violation of Mass. R. Prof. C. 1.15(e)(3).

In December 2008, the respondent deposited in his IOLTA account a \$9,900 check from another client, representing a \$5,000 flat fee and \$4,900 to pay for the costs of retaining an expert, if necessary. Instead of withdrawing his \$5,000 fee from the account by a check payable to him or his law firm, the respondent issued checks from the account directly to creditors and to pay amounts he owed to other clients. Between December 2008 and January 12, 2009, the respondent intentionally misappropriated the entire \$4,900 intended for an expert witness. By February 2010, the respondent determined that an expert would not be required and refunded the money the client had advanced for costs. The respondent's misappropriation of the money his client had given him to pay costs violated Mass. R. Prof. C. 1.15(b) and (f)(1)(C), and Mass. R. Prof. C. 8.4(c) and (h).

In the spring of 2008, the respondent met with a female witness in her home in connection with a potential wrongful death case a client had hired him to pursue. Because the witness felt uncomfortable meeting alone with the respondent, she had a woman friend

with her during the interview. During and following the meeting, the respondent made inappropriate, sexually suggestive comments to the friend, and, approximately ten days after the meeting, the respondent sent the witness an e-mail with a lewd photograph attached and an overtly sexually suggestive subject line concerning the witness's friend, specifying in the e-mail that the witness should look at the attachment. The respondent's conduct in making inappropriate remarks and in sending an offensive e-mail and photograph to the witness violated Mass. R. Prof. C. 8.4(h).

In mitigation, the respondent's recordkeeping violations were caused in part by his psychological problems, but these problems were not causally related to the respondent's misappropriation of client funds, intentional misrepresentations to his client and to bar counsel, inappropriate comments and sexually suggestive e-mail to the witness, and issuing checks payable to his creditors and to cash from his trust account. In aggravation, the respondent had received an admonition in 2008 admonition for signing his client's name to an affidavit without indicating he had done so. See *AD 08-14*, 24 Mass. Att'y Disc. R. 881 (2008.)

On January 25, 2011, the Supreme Judicial Court for Suffolk County (Spina, J.) entered an order indefinitely suspending the respondent from the practice of law with reinstatement conditioned upon proof that the respondent has continued psychiatric therapy as recommended by his therapist, has maintained his sobriety, and that his symptoms are being managed successfully and are unlikely to affect his practice. Upon reinstatement, the respondent is required to submit to an audit of his office practices by LOMAP and to institute all practices and procedures LOMAP may recommend.