

**IN RE: THOMAS F. FEENEY**

**NO. BD-2013-018**

**S.J.C. Order of Term Suspension entered by Justice Lenk on March 8, 2013, with an effective date of April 8, 2013.<sup>1</sup>**

**SUMMARY<sup>2</sup>**

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 respondent be suspended for a year and a day. The underlying facts were as follows.

In one matter, the respondent undertook to represent a client in a civil matter. He signed a fee agreement charging an hourly rate for his services and received a \$1,500 retainer from the client. He did not deposit the retainer into a trust account. The respondent converted these funds before earning them and never earned the entire retainer. He later refunded the unearned portion of the retainer using funds of the clients in the second matter, as described below.

In a second matter, the respondent represented three tenants in a dispute with their landlord. The court ruled that the respondent's clients had to pay the opposing party \$6,528.70. On July 10, 2009, the respondent deposited a partial payment of \$2,028.70 into his IOLTA account and, by July 16, had converted these funds to his own use. On July 28, 2009, the respondent received a second partial payment of \$3,000 from his clients and deposited the funds into his IOLTA account. By July 29, 2009, the respondent had converted these funds to his own use, in part by issuing a \$481.96 refund to the client in the earlier matter. On August 12, 2009, the respondent received the final installment of \$1,500 from his clients and deposited the funds into his IOLTA account. On August 17, 2009, the respondent deposited \$25,000 in personal funds into his IOLTA account and, on August 18, he issued a check to the opposing party for the full amount of the settlement proceeds.

On August 5, 2009, an electronic payment authorized by the respondent was dishonored due to insufficient funds. On August 17, 2009, the respondent deposited \$25,000 of personal funds, as described above, into the IOLTA account. On November 21, 2009, in response to a request from bar counsel, the respondent produced what purported to be his bank records for the IOLTA account. Included in the records were five deposit slips that the respondent had altered. The respondent was later scheduled to appear before bar counsel for an examination under oath.

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<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

Prior to the date set for his appearance, on his own initiative, the respondent submitted unaltered records.

From at least January 1, 2009, through March 31, 2010, the respondent failed to keep records of funds for his IOLTA account as required by Mass. R. Prof. C. 1.15. Among other things, the respondent did not maintain a ledger for each individual client matter listing all transactions and a running balance after each transaction and did not reconcile the account at least every sixty days. The respondent also made cash withdrawals and internal debits from the IOLTA account that did not identify the recipient or source of the funds, made two deposits of personal funds into the IOLTA account, and made payments from his IOLTA account directly to creditors for personal obligations.

The respondent's conduct in converting trust funds, albeit without deprivation to the clients, violated Mass. R. Prof. C. 8.4(c) and (h). His conduct in failing to keep trust funds in a trust account violated Mass. R. Prof. C. 1.15(b)(1). His conduct in altering bank records and providing the altered records to bar counsel in connection with an investigation into his conduct violated Mass. R. Prof. C. 3.4(a) and (b), 8.1(a) and (b) and 8.4(c), (d), and (h). His conduct in making distributions from his IOLTA account that created negative balances on behalf of clients violated Mass. R. Prof. C. 1.15(f)(1)(C). His conduct in failing to keep an individual ledger for each client matter with a running balance after each transaction and failing to prepare reconciliation reports violated Mass. R. Prof. C. 1.15(f)(1)(C), (E). His conduct in depositing personal funds into the IOLTA account violated Mass. R. Prof. C. 1.15(b). His conduct in withdrawing funds from the IOLTA account via cash withdrawals and making payments to creditors directly from his IOLTA account violated Mass. R. Prof. C. 1.15(e)(3) and (4).

The matter came before Board of Bar Overseers on a stipulation by the parties and a joint recommendation that the respondent be suspended for one year and one day. On March 4, 2013, the board voted to accept the parties' stipulation. On March 8, 2013, the Court entered an order suspending the respondent for one year and one day.