

IN RE: ROBERT D. STEWART

NO. BD-2013-021

S.J.C. Order of Term Suspension entered by Justice Botsford on March 21, 2013.¹

SUMMARY²

This matter was brought to bar counsel's attention by the respondent, who voluntarily his conduct, which involved the intentional misappropriation of client funds.

Between 2002 and 2010, the respondent was employed as a partner of a Boston firm. In 2008, the respondent represented a mother and daughter in connection with the purchase of real estate at auction. The clients provided the respondent with \$11,000 to hold as a deposit. Shortly after his receipt of the funds, the real estate transaction fell through. At the clients' request, the respondent agreed to hold the funds in escrow pending their purchase of substitute property. The respondent then deposited the funds into his firm's IOLTA account.

In April 2010, the respondent took a medical leave of absence from his firm. In March 2011, following his leave, the respondent did not return to his firm. Instead, he maintained a sole practice from his home. The clients elected to have the respondent continue to represent them following his departure from the firm. On March 23, 2011, the respondent's former firm transferred \$11,000 from the firm's IOLTA account into an account that the respondent had opened on behalf of the clients. The respondent then transferred the \$11,000 from the clients' account into a personal account and thereafter, converted all of the clients' funds to his own use.

In August 2012, the clients had located a property to purchase and required the use of their funds. Despite having left several messages for the respondent, he did not return their calls. When the clients could not reach the respondent on their own, they contacted the respondent's former firm, which then put the client in contact with the respondent. The respondent informed the clients that he could not represent them in the transaction and referred them back to the firm. The clients then retained the respondent's former firm.

On August 10, 2012, a partner at the respondent's former firm contacted the respondent to arrange for the transfer of the clients' \$11,000 to the firm. The respondent admitted to converting the funds. By August 13, 2012, the respondent had borrowed \$11,000 from family members and transferred it to the firm for the benefit of the clients.

The respondent's conduct in failing to maintain the clients' funds in a trust account and converting the funds to his own use violated Mass. R. Prof. C. 1.15(b) and 8.4(c). His failure to

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.

respond to his clients telephone calls and to apprise her of the status of her funds violated Mass. R. Prof. C. 1.4(a) and (b).

On January 15, 2013, a petition for discipline and the respondent's answer to the petition for discipline and stipulation of the parties were filed with the Board of Bar Overseers. The parties jointly recommend that the respondent be suspended from the practice of law for one year and a day.

On February 11, 2013, the Board of Bar Overseers voted to accept the parties' stipulation and recommendation for discipline. On March 13, 2013, the board filed an information with the Supreme Judicial Court for Suffolk County. On March 21, 2013, the Supreme Judicial Court for Suffolk County (Botsford, J.) ordered that the respondent be suspended from the practice of law for one year and a day, effective immediately.