

**IN RE: DANIEL JAMES NAJARIAN****NO. BD-2014-068****SUMMARY<sup>1</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 stipulation be accepted. In the stipulation, the respondent admitted to the following facts.

Since 2009, the respondent maintained an IOLTA account at Citizens Bank. From 2009 until 2013, the respondent failed to keep records in compliance with Mass. R. Prof. C. 1.15. The respondent did not perform three-way reconciliations of the account at least every sixty days, in violation of Mass. R. Prof. C. 1.15(f)(1)(E), and did not keep individual client ledgers charges with a list of every transaction and running balance and an individual ledger for bank charges, in violation of Mass. R. Prof. C. 1.15(f)(1)(C) and (D).

In June of 2012, the respondent agreed to purchase an investment property with a friend, renovate it and resell it for a profit. The respondent and the friend entered into an oral agreement that each would contribute \$13,324.52 towards the purchase and rehabilitation of the property. The closing took place on July 30, 2012, and all funds for the closing and renovation expenses, including the friend's contribution and the loan proceeds for financing the transaction, were deposited into the respondent's Citizens IOLTA account.

The respondent knowingly failed to deposit \$9,324.52 of his agreed contribution into his IOLTA account. By August 1, 2012, all funds towards the purchase and renovations of the property were disbursed from the respondent's IOLTA account. The final \$9,324.52 in disbursements for the property drew upon unrelated clients' funds in the IOLTA account. The property was sold on November 26, 2012, and full restitution was made by the respondent on November 29, 2012.

The respondent's failure to deposit \$9,324.52 into the Citizens IOLTA account and his resulting misuse of clients' funds violated Mass. R. Prof. C. 1.15(b)(1) and 8.4(c) and (h).

In mitigation, the misuse of clients' funds occurred over a short period of time, there was no deprivation and restitution was made by the respondent promptly upon the sale of the property. Further, the respondent self-reported the temporary misuse of funds to bar counsel, which otherwise might not have been discovered during bar counsel's investigation of an unrelated matter. In further mitigation, the respondent on his own initiative hired a bookkeeper, brought his IOLTA account into compliance with rule 1.15,

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<sup>1</sup> Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

attended educational programs on trust accounting, and participated in a consultation and review of his practice with the Law Office Management Assistance Program.

The parties stipulated to a suspension of the practice of law for three months, with execution stayed for a period of one year on condition that the respondent provide all reconciliation reports, plus other account records as requested, to bar counsel for a period of one year.

On June 2, 2014, 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 August 11, 2014, the county court, Lenk, J., entered an order suspending the respondent for three months, with the execution of the suspension stayed for a period of one year subject to the conditions set forth above.