

**IN RE: JAY S. RUDOLPH**

**NO. BD-2015-097**

**S.J.C. Order of Indefinite Suspension entered by Justice Lenk on April 3, 2017, retroactive to February 1, 2016.<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 stipulation be accepted. In the stipulation, the respondent admitted that he converted client funds, causing temporary deprivation to the clients, and failed to maintain IOLTA account records in compliance with Mass. R. Prof. C. 1.15. The respondent ultimately made restitution in full.

The underlying facts are as follows. On August 26, 2015, bar counsel opened an investigation based on a dishonored IOLTA account check notice received from the respondent's bank. On October 29, 2015, the respondent was administratively suspended from the practice of law for failure to cooperate with bar counsel's investigation. On February 1, 2016, the respondent complied with the terms of the administrative suspension.

The respondent acted as a closing attorney representing lenders in real estate transactions. In the course of his practice, he intentionally misappropriated real estate settlement funds from a transaction in October 2015, that he used, in part, to pay off obligations owed on earlier transactions. The net result was that the balance in the IOLTA account was at least \$42,971.64 short of the amount that should have been on deposit to pay off the mortgage from the October 2015 closing, and that the respondent did not have adequate funds available to pay off this obligation.

The respondent also failed to keep records of funds for his two IOLTA accounts as required by Mass. R. Prof. C. 1.15. Among other things, the respondent did not keep a chronological check register showing each deposit and disbursement with client identifiers and with a calculation of the balance after each transaction, he did not maintain records of deposits with client identifiers, he did not maintain a ledger for each individual client matter, he did not keep a ledger of his personal funds in the account, and he did not reconcile the account at least every sixty days.

The respondent admitted that a hearing committee, the Board of Bar Overseers and the Supreme Judicial Court would conclude that he violated Mass. R. Prof. C. 1.15(b)(1), (c), and (f)(1)(B), (C), (D), (E) and Mass. R. Prof. C. 8.4(c) and (h).

On March 13, 2017, the Board of Bar Overseers voted to recommend that the stipulation of the parties be accepted and that the respondent be indefinitely suspended, retroactive to the date of the administrative suspension, February 1, 2016. On April 3, 2017, the Supreme Judicial Court for Suffolk County so ordered.

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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> Complied by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.