

**IN RE: JEFFREY S. ENTIN****NO. BD-2016-014****S.J.C. Order of Indefinite Suspension entered by Justice Lenk on February 1, 2016, with an effective date of March 2, 2016.¹****SUMMARY²**

The respondent was indefinitely suspended for misusing client trust funds and for charging clearly excessive fees.

The respondent's client was a disabled veteran who had been under the care and protection of a guardian for nearly thirty years. On December 23, 2008, the client died, leaving a niece and nephew as his sole heirs pursuant to the terms of a codicil to the client's will, which the respondent had prepared for the client thirteen years earlier. That same codicil named the respondent the executor of the estate.

Acting in his capacity as executor for the estate, the respondent collected the estate assets, which consisted of bank accounts totaling \$541,654.44 and two insurance policies in the amount of \$5,507.20 and \$5,591.12, respectively. The respondent deposited \$37,886.43 of the estate funds in to his IOLTA account; he deposited the remainder in a separate client trust account.

The respondent filed a petition for probate on May 19, 2009. On October 15, 2010, the respondent filed an Inventory with the probate court. On the Inventory, the respondent underreported the amount of money that he had actually collected for the estate.

After making partial distributions to the heirs totaling \$400,000, the respondent filed a First Account with the probate court covering the period ending December 31, 2010. On Schedule A of the First Account, the respondent again underreported the amount of money that he had collected. At the same time, on Schedule B of the First Account, the respondent overstated the amount of costs and expenses that he paid with estate funds. On Schedule C of the First Account, the respondent represented that he was holding a total of \$118,157.98 in estate funds. In fact, the most that the respondent was holding in the client trust account and in his IOLTA account as of December 31, 2010 was \$7,694.87.

The respondent did not perform work of any substance on behalf of the estate or its beneficiaries after filing the First Account. The respondent made no further disbursements to the beneficiaries thereafter.

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.

On January 23, 2012, the respondent filed a Second and Final Account for the estate covering the period from January 1, 2011 to December 31, 2011. Once again, on Schedule B the respondent overstated the amount of disbursements he made on behalf of the estate. Also on Schedule B, the respondent listed \$117,214.50 in legal fees and executor fees that he claimed that he had earned. By then, however, the respondent had actually withdrawn \$145,500 from the estate. The respondent intentionally misused more than \$28,000 of estate funds for his own benefit. The respondent did so with the intent to deprive the estate and its beneficiaries of that money, and with actual deprivation resulting.

The respondent's intentional misuse of the estate's funds violated Mass. R. Prof. C. 1.15(b) and (c), and 8.4(c) and (h). By failing to maintain the estate's funds in a trust account, by failing to promptly deliver to the beneficiaries of the estate the funds due them and by failing to render a full and accurate accounting to the beneficiaries after filing his Second and Final Account, the respondent also violated Mass. R. Prof. C. 1.15(b)(1), 1.15(c), 1.15(d)(1) and 8.4(c).

The respondent's failure to file an accurate Inventory, First Account, and Second and Final Account violated Mass. R. Prof. C. 1.1, 3.4(c) and 8.4(d). The respondent's failure to diligently complete the estate violated Mass. R. Prof. C. 1.3.

The probate of the client's estate was routine and presented no novel or difficult issues. At the time of his death, all of the client's assets were under the control of a guardian. The guardian filed a final account, which was approved by the court. The guardian transferred the client's assets to the respondent after the respondent was appointed as the estate's representative. The life insurance proceeds were paid to the estate immediately upon receipt of proof of the respondent's appointment as the estate's representative and a copy of the client's death certificate. The client's final expenses, not already paid by his guardian, were minimal. The tax returns for the estate were prepared by an accountant whom the respondent hired and whose fees were paid from the assets of the estate as reflected in the First Account.

Notwithstanding the uncomplicated nature of the estate, the respondent charged the estate \$117,214.50. This amount included \$72,750 in legal fees for allegedly 286.25 hours of legal work, an amount that the respondent intentionally inflated. In addition to misrepresenting the amount of time he actually spent on the estate, the respondent performed unnecessary work and charged the estate at his legal rate for work that did not require legal services.

The respondent also charged the estate \$27,402 for work performed in his capacity as executor even though the respondent performed no work for the estate in his capacity as executor that he did not charge and bill to the estate as a legal fee. He charged the estate \$17,062.50 for legal services which were completely unrelated to his work on behalf of the estate, intentionally misrepresenting the estate's liability for these fees in the process.

The respondent's conduct in charging the estate for services that he had not performed and for hours that he had not expended, for charging the estate for unnecessary services and for non-legal services at his legal rate of \$250 per hour, and for misrepresenting the estate's liability for fees generated in connection with unrelated work, violated Mass. R. Prof. C. 1.5(a) and 8.4(c).

The respondent also violated Mass. R. Prof. C. 1.15(d)(2) by, on or before the date he withdrew funds to pay his fees, failing to provide written notice to the estate or its beneficiaries

of the amount and purpose of the withdrawal, an itemized bill or other accounting showing the services rendered and a writing showing the balance in the account after withdrawal.

The respondent was admitted to the bar of the Commonwealth in 1966. He has no history of prior discipline. The respondent has made restitution of \$28,720.31 to the heirs of the estate.

Bar counsel filed a petition for discipline on March 9, 2015. The respondent filed an answer on March 30, 2015. On November 18, 2015, an amended answer to the petition and stipulation of the parties were filed with the Board of Bar Overseers. The parties jointly recommended that the respondent be indefinitely suspended from the practice of law. On December 14, 2015, the board voted unanimously to recommend to the Supreme Judicial Court that the respondent be indefinitely suspended. On February 1, 2016, the county court (Lenk, J.) ordered that the respondent be suspended indefinitely, effective thirty days after the date of the entry of the order.