

IN RE: DWIGHT A. WARE

NO. BD-2017-056

S.J.C. Judgment of Disbarment entered by Justice Lowy on May 22, 2017.¹

SUMMARY²

This matter came before the Board of Bar Overseers and the Court on the respondent's affidavit of resignation pursuant to Supreme Judicial Court Rule 4:01, § 15. The respondent was admitted to practice in the Commonwealth on June 18, 1977. In the affidavit, the respondent acknowledged that the material facts and rule violations summarized below could be proved by a preponderance of the evidence.

The respondent failed to keep required trust account records and to reconcile his client funds accounts from at least January 2014 until the present. He engaged in a pattern of making disbursements for real estate closings prior to receiving the closing funds. On multiple occasions, he misused client funds that he was holding for specific client matters to make disbursements for other unrelated client matters. In one matter, the respondent intentionally misused funds received as a buyer's deposit to pay himself \$25,000, and when the sale fell through, he used other clients' funds to return the buyer's deposit. Between December 2014 and the present, the respondent transferred to his personal and client funds accounts no less than \$230,991 from accounts that he was managing for a single client, and intentionally used the funds for personal and business purposes unrelated to the client without the client's consent. In November 2015, the respondent obtained the same client's permission to "borrow" an unspecified amount of funds from his accounts, to be repaid with interest upon the sale of certain real estate. This loan arrangement was made without full and adequate disclosure to the client, and without adequate security. The respondent failed to repay the loans and as of his resignation, the respondent owed the client at least \$183,838, and did not have adequate funds to repay the client or otherwise make restitution. By his conduct, the respondent violated Mass. R. Prof. C. 1.15(b), 1.15(f)(1), 1.8(a), 8.4(c), and 8.4(h).

In aggravation, the respondent previously received a public reprimand for unrelated conduct. *Matter of Ware*, 26 Mass. Att'y Disc. R. 707 (2010). He also previously received two admonitions. *Admonition No. 99-64*, 15 Mass. Att'y Disc. R. 770 (1999) (failing to diligently obtain loan discharges for six years after a 1992 closing), and *Admonition No. 08-19*, 24 Mass. Att'y Disc. R. 897 (2008) (engaging in an improper business transaction with a client).

On April 25, 2017, the respondent filed an affidavit of resignation. On May 8, 2017, the board unanimously voted to recommend that the affidavit of resignation be accepted and the respondent disbarred. On May 22, 2017, the Supreme Judicial Court for Suffolk County (Lowy, J.) accepted the affidavit of resignation and entered a judgment of disbarment effective immediately upon the entry of the judgment.

¹ The complete Judgment of Disbarment 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.