

IN RE: MICHAEL A. JOHNSON
NO. BD- 2018-095

S.J.C. Order of Term Suspension entered by Justice Cypher on November 5, 2018.¹

On the respondent's stipulation, the SJC imposed a three-month suspension for negligent misuse of settlement funds and failure to comply with the rules governing IOLTA accounts. He incorrectly held settlement funds in his law firm operating account rather than an IOLTA account.

SUMMARY²

The respondent was admitted to the Massachusetts bar on June 16, 2014. On November 5, 2018, the Supreme Judicial Court for Suffolk County entered an order of a term suspension for three months to begin on December 20, 2018. The order of term suspension arose from the respondent's misconduct in intentional commingling and negligent misuse with deprivation.

In February 2016, the respondent was retained by a chiropractor to assist him in collecting payments from an insurance company in connection with his treatment of an individual who was involved in a car accident. The insurance company had previously declined to pay the chiropractor's bill.

By May 2016, the insurance company had agreed to pay the chiropractor's bill and forwarded its payment to the respondent. On June 7, 2016, the respondent deposited the insurance check into his business operating account. The account also contained personal and/or business funds belonging to the respondent. The respondent was unaware that Mass. R. Prof. C. 1.15 required trust funds held for a short period of time to be maintained in an IOLTA account and instead understood, incorrectly, that IOLTA accounts were for trust funds held for a longer term. The respondent therefore routinely deposited client settlement funds into his operating account and paid his clients directly from the account.

On June 18, 2016, the respondent remitted a series of settlement payments to clients from his operating account. He mistakenly believed that the chiropractor's settlement was included and that the balance remaining in the account thereafter was his own money. Between July 1, 2016, and August 24, 2016, the respondent negligently misused the settlement proceeds due to the chiropractor by spending those funds for personal and/or business purposes. The respondent's misuse of these funds deprived the chiropractor, temporarily, of the funds. However, by September 7, 2016, the respondent had paid the chiropractor a check representing his portion of the proceeds from the settlement with the insurance company.

By depositing client funds into his operating account rather than into a client trust account, and negligently misusing those funds, the respondent violated Mass. R. Prof. C. 1.15(b)(1). By failing promptly to disburse his client's share of the settlement funds, the respondent violated Mass. R. Prof. C. 1.15(c).

The matter came before the Board of Bar Overseers on a stipulation of the parties agreeing to recommend a three-month suspension from the practice of law with the requirement that the respondent agree to a financial probation for a period of one year and that he submit records compliant with Mass. R. Prof. C. 1.15 (f)(1) to bar counsel for review, every three months. On September 17, 2018, the Board of Bar Overseers voted to adopt the parties' stipulation and proposed sanction. On November 5, 2018, the Supreme Judicial Court for Suffolk so ordered.

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.