

IN RE: PAMELA HARRIS-DALEY

NO. BD-2018-101

**S.J.C. Order of Term Suspension entered by Justice Budd on November 27, 2018,
with an effective date of December 27, 2018.¹**

Upon her stipulation, the respondent was suspended for two years for misconduct in the representation of a defendant in a motor vehicle case. The respondent intentionally over-billed the client, sent him a false accounting of his payments, misused expense and retainer funds and failed to maintain required IOLTA account records.

SUMMARY²

The client retained the respondent in February 2014 to defend him in a pending civil case in which he had been sued for negligently operating a motor vehicle and thus causing injury to the plaintiff. The client signed a fee agreement in which he agreed to pay the respondent \$300-\$325 per hour.

Over the course of the representation, which was settled in March 2015, the respondent collected \$59,850 from the client for legal fees and expenses. She deposited those funds to her IOLTA account but failed to maintain required records, including a chronological check register and individual client account, and failed to reconcile her account at least every sixty days. The respondent withdrew the client's funds from her IOLTA without first sending the client an invoice showing the amount she had withdrawn and his balance thereafter. She also wrote checks from her IOLTA account to pay her personal bills.

In March 2015, the respondent sent an invoice to the client in which she purported to adjust a bill she had sent to him in February and bring the bill up to date. In the March invoice, the respondent added 24.5 hours to dates that had already been covered on the February bill. Those additional hours were not legitimate as the respondent had not spent the added time on the client's case. The respondent also billed 4.5 hours of time for attending a court hearing that did not occur.

In June 2015, the respondent sent the client a final accounting of his funds, in which she charged the client \$5000 that she purported to have paid to a medical expert and \$4950 that she claimed to have paid to an investigator. The respondent had paid only \$900 to the medical expert. Although the client had paid the respondent \$4000 specifically earmarked for the investigator, the respondent did not pay any funds to the investigator. The respondent misused a significant portion of the client's retainer and expense payments for her own personal and business purposes.

By billing and collecting from the client funds for work she had not performed and expenses she had not paid, the respondent collected a clearly excessive fee, in violation of Mass. R. Prof. C. 1.5(a), and engaged in conduct involving dishonesty, deceit, fraud and misrepresentation, in violation of Mass. R. Prof. C. 8.4(c).

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.

By misusing client funds and failing to refund the unearned funds at the end of the representation, the respondent violated Mass. R. Prof. C. 1.15(b) and 1.16(d).

By failing to deliver to the client an itemized bill or other accounting showing the services rendered, written notice of the amount and date of earned fees being withdrawn, and a statement of the balance of the client's funds in the trust account before each withdrawal of his funds, the respondent violated Mass. R. Prof. C. 1.15(d)(2).

By writing checks on her IOLTA account to pay her own bills, the respondent violated Mass. R. Prof. C. 1.15(e)(5).

By failing to maintain the required IOLTA records, including a chronological check register and individual client and bank fee ledgers, and by failing to prepare and retain reconciliation reports on a regular basis for her IOLTA account, the respondent violated Mass. R. Prof. C. 1.15(f)(1)(B)(C)(D) and (E).

On October 3, 2018, the parties submitted to the Board a stipulation in which they asked the Board to recommend that respondent be suspended for two years. On October 15, 2018 the Board voted to approve the stipulation and to file an Information with the Supreme Judicial Court. On November 27, 2018, the Court entered an order suspending the respondent from the practice of law for two years, effective thirty days from the entry of the Order.