

IN RE: JEFFREY S. LAMBERT

NO. BD-99-012

SUMMARY

This matter came before the Court on the respondent's affidavit of resignation pursuant to S.J.C. Rule 4:01, § 15. The respondent admitted in the affidavit that sufficient evidence existed to warrant findings that the facts alleged in Bar Counsel's statement of disciplinary charges could be proved, as follows.

The file was opened as a result of Bar Counsel's receipt of two notices of dishonored checks drawn on the respondent's IOLTA account. The respondent at all material times was engaged in the private practice of law in Boston, primarily representing plaintiffs in personal injury cases. In his capacity as plaintiffs' counsel, the respondent received settlement funds and other insurance payments such as personal injury protection (PIP) or medical payments.

From 1996 to the present, the respondent on multiple occasions, and without the knowledge or consent of either his clients or his clients' medical providers, intentionally expended funds owed to his clients or his clients' medical providers for the respondent's own personal or business purposes or that of other unrelated clients, including funds wrongly expended by the respondent in the following client matters.

In or before 1996, the respondent settled a claim for a client for \$75,000. The respondent did not advise the client that this settlement had been made or received. Without the client's knowledge or consent, the respondent intentionally expended this \$75,000 settlement for his own business or personal purposes or those of other clients and did not pay the client her share until February and March of 1997. On February 6, 1997 and March 3, 1997, the respondent remitted two checks of \$25,000 each (\$50,000 total) to the client. He was able to make the first \$25,000 payment to the client only by converting settlement funds received for and due another client, as described in the following paragraph. The second payment of \$25,000 was financed with a personal loan.

In a second case, the respondent settled a portion of a claim for a client for \$50,000 in or about January 31, 1997. Prior to the receipt and deposit of the settlement check, the respondent's IOLTA account was in overdraft, with a balance of (\$22.61). The respondent did not advise the client that this \$50,000 settlement had been made or received. Without the client's knowledge or consent, he intentionally expended the \$50,000 settlement for his own business or personal purposes or those of other clients unrelated to the client, including \$25,000 paid from the settlement funds to the client described in the previous paragraph, plus \$4646.50 to a client in another unrelated matter described below and whose funds the respondent had also converted. The remainder of the funds were retained by the respondent personally. The respondent did not finally inform the client that this \$50,000 settlement had been received until December 9, 1998, when he used personal funds to pay her \$36,033 including interest since January 1997.

In a third case, the respondent in or about July 11, 1996, settled a claim for a client in the amount of \$72,800. From this sum, he properly disbursed \$62,800 to or for the client and to himself for fees. The respondent withheld the \$10,000 balance of the settlement funds in order to negotiate and pay the client's medical bills. He instead, and without the client's consent or authorization, transferred this \$10,000 on July 19, 1996 to his operating account, and within a week and again without the client's knowledge or authorization, intentionally expended these funds for his own personal or business purposes unrelated to this client. The respondent released an additional \$4646.50 to the client in or about January 1997 with a check drawn on his IOLTA account that was returned for insufficient funds. This check was one of the returned checks reported by the bank to Bar Counsel. The respondent replaced the dishonored check with a new check in the same amount that was paid on March 31, 1997, only by using funds misappropriated by the respondent from the settlement in the second case described in the previous paragraph. The respondent subsequently settled the client's medical liens in late 1997 and early 1998

and paid the providers, and a \$900 balance to the client, from personal funds.

Also on this third case, the respondent received a further \$7000 payment from an insurer on behalf of the client in February 1996. He deposited this sum to his operating account, and without the client's authorization, intentionally spent it for his own business or personal purposes unrelated to the client. He did not remit the client's share to her until December 2, 1998, when he paid her \$5417, including interest from February 1996.

In a fourth case, the respondent on or about February 24, 1997, settled a client's claim for \$17,000. The respondent did not advise the client that this \$17,000 settlement had been made or received. He deposited the settlement check to his operating account and, without the client's authorization, intentionally spent this \$17,000 for his own business or personal purposes unrelated to the client. The respondent did not pay the client her share of the \$17,000 settlement until December 2, 1998, when he used personal funds to pay her \$12,353 including interest from February 1997.

The respondent's conduct in commingling and intentionally converting trust funds with intent to deprive the clients or their creditors of the use of the funds at least temporarily and with actual deprivation resulting is in violation of Canon One, DR 1-102(A)(4),(6) and Canon Nine, DR 9-102(A),(B)(3),(4), as well as Mass. R. Prof. C. 1.15(a)-(d) and 8.4(c),(h) for conduct after January 1, 1998.

On February 8, 1999, the Board of Bar Overseers voted to recommend that the affidavit of resignation be accepted and that an order of indefinite suspension be entered. The Court so ordered on March 24, 1999.

Please direct all questions to webmaster@massbbo.org.

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