

IN RE: LEE BARON

Order (public reprimand) entered by the Board January 24, 2001.

SUMMARY¹

In November 1999, the respondent was supervisory partner in a law firm. At this time, the respondent was responsible for the operation of three law offices located in different municipalities. Another attorney managed the Worcester office, but subject to the supervision of the respondent. The firm's practice consisted primarily of residential real estate conveyancing work, usually in the capacity of lender's counsel.

On December 6, 1999, Bar Counsel received notice of dishonored checks from the bank in which the firm maintained an IOLTA account. The notice reported that on November 26, 1999, nineteen items totaling \$513,268.51 were presented for payment causing the account to be overdrawn in the amount of \$149,256.83. On December 30, 1999, Bar Counsel received a second dishonored check notice from the bank reporting that on December 24, 1999, nine items totaling \$277,563.01 were returned unpaid and that payment would have caused the account to be overdrawn.

The IOLTA account was used primarily to receive funds and make disbursements in connection with the conveyancing practice of the Worcester office. On December 31, 1997, the Worcester office conducted a real estate closing transaction. On that date, another bank was to wire \$160,303.50 into the account to fund the transaction. This bank mistakenly wired the funds into someone else's account. The transaction closed and went to record. Disbursement checks were drawn on the account without any corresponding funding of the account. The Worcester managing attorney and the Worcester office staff failed to confirm receipt of good funds prior to consummation of the transaction and the transaction was able to close only because of the float in the firm's IOLTA account.

From December 31, 1997, to December 31, 1999, all closing transactions that occurred in the respondent's Worcester office were recorded by the Quincy office. Pursuant to this practice, the Worcester office periodically sent all of the financial information as to each closing to the bookkeeper in the Quincy office. From December 31, 1997, to on or about December 28, 1999, the respondent and his staff at the Quincy office failed to adequately reconcile the IOLTA account and failed to discover the misdirected deposit. On December 28, 1999, shortly after a financial audit commissioned by the respondent uncovered the mistake, the wire into the incorrect account was reversed and the respondent's IOLTA account was credited the full amount of the funds. During the two-year period that the account was \$160,303.50 short, the deficiency in the account was masked by the float.

The respondent's failure to cause the account to be adequately reconciled, and his corresponding failure to learn of a substantial misdirected deposit for two years after having closed on the loan which the deposit was to fund, was in violation of Mass. R. Prof. C. 1.15(a).

As a result of prior notices of dishonored checks, Bar Counsel had previously cautioned the respondent in 1996 and 1997 as to his obligations, under both the "good funds" statute G.L. c. 183, § 63B, and the rules of professional conduct, to verify receipt of collected funds prior to

tendering disbursement checks in residential real estate closing transactions. Despite that fact, from December 1997 to December 1999, the Worcester office repeatedly failed to take adequate steps to confirm receipt of funds prior to disbursement of checks from closings. Also, during this period, deposit items, usually cashier's checks representing partial funding, were not timely deposited to the IOLTA account after the closings took place. As a result of these omissions, disbursement checks were presented against uncollected funds. The respondent's failure to adequately supervise the Worcester managing attorney in these respects was in violation of Mass. R. Prof. C. 5.1.

In aggravation, the respondent has a prior admonition for record keeping violations, including failure to reconcile a different IOLTA account.

The parties stipulated that the appropriate sanction was a public reprimand. On October 16, 2000, the Board of Bar Overseers voted to adopt the parties' stipulation and proposed sanction. On January 24, 2001, the respondent received a public reprimand.

¹ Compiled by the Board of Bar Overseers based on the record of proceedings before the Board.

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