

IN RE: EDWARD J. SYLVIA, JR.

Order (public reprimand) entered by the Board October 30, 2001.

SUMMARY¹

Between March of 1996 and April of 1999, pursuant to former Canon Nine, DR 9-103 and Mass. R. Prof. C. 1.15(f), Bar Counsel received nine notifications regarding overdrafts or dishonored checks drawn on the respondent's IOLTA account. Two of the dishonored checks were subsequently discovered to have been caused by bank error. In other instances where a dishonored check was payable to a client or the account was overdrawn, the respondent promptly paid the client or corrected the overdraft using his own funds.

Commencing at least as of March of 1996 through at least April of 1999, the respondent allowed earned fees to accumulate in his IOLTA account; deposited earned fees into his IOLTA account; used funds from his IOLTA account to make payments toward the operating expenses of his personal business; and failed to maintain individual client ledgers. He also failed to retain records pertaining to his IOLTA account prior to 1999.

As a result of these problems, the respondent made assumptions, sometimes incorrectly, as to whose funds comprised the balance in the account and how much was due the respondent. These problems ultimately led to the deficiencies in the account and to the account being overdrawn and checks dishonored.

The respondent's mismanagement and inadequate record keeping of his IOLTA account is conduct in violation of Canon Nine, DR 9-102(A),(B)(3),(4) and, after January 1, 1998, Mass. R. Prof. C. 1.15(a).

The respondent also failed to cooperate with Bar Counsel's investigation, thus requiring that he be subpoenaed. The respondent's conduct in this respect was in violation of S.J.C. Rule 4:01 § 3(1) and Mass. R. Prof. C. 8.4(g).

This matter came before the Board on a stipulation of facts and disciplinary violations and a joint recommendation for discipline by public reprimand. On October 15, 2001, the Board of Bar Overseers voted to adopt the parties' stipulation and proposed sanction. On October 30, 2001, the respondent received a public reprimand.

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