

IN RE: DONALD H. BARNES, JR.

Order (public reprimand) entered by the Board April 22, 2002.

SUMMARY<sup>1</sup>

From approximately January 1998 through October 2000, the respondent maintained a designated IOLTA account into which he deposited client or other trust funds and from which he disbursed those funds. Commencing at least as of January of 1998 and continuing until after June of 2000, the respondent's record keeping in his IOLTA account was generally inadequate. Individual client ledgers were not maintained; an accurate check register was not maintained; fees were not withdrawn from the account as earned and, when paid, were withdrawn piecemeal; and the account was not reconciled.

From January 1998 through October 2000, the respondent issued payments to himself and for the benefit of his office from his IOLTA account. When he made those payments, the respondent intended to draw on the attorney's fees he had left in the IOLTA account. In fact, as a result of his inadequate record keeping, the respondent on occasion negligently used other client's funds to pay these amounts, with no deprivation occurring.

On June 12, 2000, Fleet Bank dishonored a check drawn on the respondent's IOLTA account. This check represented the disbursement of a settlement to a client and payment would have caused an overdraft. The respondent immediately upon being notified by the bank that the check had not been paid deposited personal funds to the IOLTA account to enable the check to clear upon redeposit.

The respondent's commingling and negligent misuse of client funds, and his failure to keep adequate records of those funds violated Mass. R. Prof. C. 1.15(a).

The respondent was admitted to the Massachusetts bar in 1968. He has no prior discipline. He has now instituted changes to his record keeping to conform to the Rules of Professional Conduct.

The respondent received a public reprimand for the above violations, conditioned upon his attendance at a CLE course designated by Bar Counsel.

<sup>1</sup> Compiled by the Board of Bar Overseers based on the record of proceedings before the Board.