

IN RE: LAWRENCE F. McCARTHY

Order (public reprimand) entered by the Board April 24, 2003.

SUMMARY<sup>1</sup>

Between about 1997 and 1999, the respondent maintained a designated IOLTA account and held client funds in the account. During that period, the respondent failed to keep adequate records of all his deposits to and disbursements from the IOLTA account. On occasion, the respondent failed promptly to withdraw all funds due him as fees and thereby commingled his own funds with client funds on deposit in the IOLTA account.

From about the spring of 1997 through the summer of 1999, the respondent represented a client in claims arising from injuries sustained as a passenger in a one-car accident. In July 1997, the respondent settled the client's personal injury claim against the driver of the car for \$20,000. At that time the respondent was to hold the client's net proceeds, in the amount of about \$12,000, in anticipation of funding further investigation and litigation based on theories of products liability, dram shop liability or negligent entrustment. The respondent failed to place or retain the client's proceeds in a separate, interest-bearing account. Instead, between about July 1997 and July 1999, the respondent held the proceeds in his IOLTA account. As a result of his inadequate record-keeping, the respondent inadvertently and temporarily misused about \$1,200 of the proceeds by withdrawing that sum from his IOLTA account as a duplicate reimbursement for the expenses of an expert retained on behalf of the client. The client's further litigation was concluded by about July 1999. The respondent then remitted the net proceeds due the client. The client was not deprived of her funds.

The respondent's failure to maintain a segregated IOLTA account, failure to maintain adequate records for all the funds in the account, failure to hold the client's proceeds in an individual account, commingling of client funds with his own funds, and negligent and temporary misuse of a portion of the client's funds without deprivation violated Canon One, DR 1 102(A)(6) [conduct adversely reflecting on fitness to practice law], Canon Nine, DR 9 102(A), (B)(3), and (C) [failure to segregate client or fiduciary funds; failure to keep adequate records of funds; failure to hold funds at interest for benefit of client]; and, after December 31, 1997, Mass. R. Prof. C. 1.15(a), (d), and (e).

The respondent was admitted to the Massachusetts bar in 1991. He had no history of prior discipline.

The matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and an agreed recommendation for discipline by public reprimand, subject to accounting conditions as set forth in a two-year probationary agreement. The Board adopted the parties' recommendation. On April 14, 2003, the Board voted to impose a public reprimand subject to the probationary conditions.

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

Please direct all questions to [webmaster@massbbo.org](mailto:webmaster@massbbo.org).  
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