

ERIC CHALIF

Order (public reprimand) entered by the Board January 18, 2007.

SUMMARY¹

The respondent received a public reprimand for the conduct described below.

In March of 2003, the respondent's client was injured while a passenger in a vehicle that collided with another vehicle in Randolph. Hanover Insurance Company insured the owner of the vehicle that struck the client and One Beacon insured the owner of the vehicle in which the client was a passenger. In November 2004, the two insurance companies agreed that the claim could be settled for an aggregate of \$3,500. The respondent's client accepted the offer.

One Beacon agreed that Hanover would pay the claim and then be reimbursed one-half of the total (\$1,750) by One Beacon. On November 8, 2004, Hanover sent a settlement check in the amount of \$3,500 to the respondent. The check was deposited into the respondent's IOLTA account and the proceeds, including the respondent's fee, were disbursed as agreed with the client. The client's file was then closed and placed in storage with a client ledger detailing the settlement breakdown.

On December 22, 2004, One Beacon inadvertently sent the respondent a further settlement check for \$1,750 payable to the respondent. This check appeared on its face to be an insurance company settlement check and contained the notation "ABI" which the respondent's staff understood to mean automobile bodily injury. However, the check was intended to be sent, and made payable, to Hanover. On December 30, 2004, a member of the respondent's staff deposited the \$1,750 check, along with other settlement checks, into the respondent's IOLTA account. The respondent was unaware the receipt of the check from One Beacon or that his staff member had deposited the check. The respondent therefore did not notify the client or otherwise takes steps to ascertain the purpose of the check and disburse the proceeds.

At the time that the respondent received the check and continuing until on or after March 2006, the respondent did not maintain his client ledgers apart from the client file or reconcile the total of the client ledger balances against his check register balance or against the adjusted bank statement balance as required by Mass. R. Prof. C. 1.15. As a result of his inadequate record keeping, the respondent first learned of the receipt of the One Beacon check in or about March 2005.

On divers dates between March of 2005 and October of 2005, Hanover sent repeated requests to the respondent and made several telephone calls, asking for reimbursement of the misdirected check. The respondent had difficulty locating and retrieving the client file to research the matter and did not respond to Hanover's requests to resolve the matter. On March 16, 2006, Hanover filed civil complaints against the respondent, the respondent's client and One Beacon in small claims court, seeking reimbursement of the \$1,750, plus interest and costs. Hanover also filed a complaint with bar counsel. In March 2006, in response to the small

claims court summons but before receiving notice of a disciplinary complaint, the respondent reimbursed Hanover \$1,750, in full satisfaction of its claim. The respondent paid the claim from his operating account and reimbursed himself from the funds remaining in his IOLTA account.

After the respondent was notified of the complaint by bar counsel, he hired counsel and remedied his bookkeeping to comply with the requirements of Mass. R. Prof. C. 1.15.

By failing to promptly deliver to a third party the funds that the party was entitled to receive, the respondent violated Mass. R. Prof. C.1.15 (c). By failing to adequately supervise his staff such that he was initially unaware of the receipt and deposit of the One Beacon check, the respondent violated Mass. R. Prof. C. 5.3(a) and (b). By failing to maintain proper reconciliation reports, the respondent violated Mass. R. Prof. C. 1.15(f).

In aggravation, the respondent received an admonition on February 18, 2005, for false or misleading communication and misleading firm names on his letterhead.

This matter came before the Board on a stipulation of facts and disciplinary violations and a joint recommendation for discipline by public reprimand. The Board accepted the parties' recommendation and imposed a public reprimand.

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

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