

JOSEPH G. ABROMOVITZ

Order (public reprimand) entered by the Board March 22, 2007.

SUMMARY<sup>1</sup>

The respondent represented a client in toxic tort litigation against multiple defendants. During 1999 and 2000, the respondent settled the client's claims against the various defendants, received their settlement payments, deposited the payments to an IOLTA account, and made interim distributions to the client and to his firm for fees and expense reimbursements. The respondent failed to keep adequate records of the funds deposited to and disbursed from this account and to track the funds belonging to each client on deposit in the account.

In the course of settling the claims, the respondent received a \$20,000 settlement payment from one of the defendants but negligently failed to attribute it to the client in his IOLTA records and did not inform the client that those funds had been received. Due to his failure to reconcile or verify the individual client balances in the account, the respondent did not detect the error thereafter. Accordingly, his record of receipts for the client's case was short by \$20,000.

In July 2000, the respondent concluded the settlements and made final distribution to the client. By then, the respondent had collected a total of \$787,500 in settlement proceeds, but his records reflected total receipts of \$767,500. The respondent did not review his records of the receipts and disbursements in the client's case or verify those receipts and disbursements by reference to his IOLTA bank account records before the final distribution. As a result, the respondent failed to remit to the client \$12,000, representing her share of the \$20,000 settlement.

When he made the final distribution to the client in July 2000, the respondent gave her a final accounting that he believed reflected all his receipts and disbursements and the net proceeds due her after deductions for fees and expenses. The accounting understated the total receipts by \$20,000 and the net amount due the client by \$12,000.

Between July 2000 and August 2003, the respondent was unaware that additional funds were due the client. Although the client was deprived of her funds during that period, the respondent did not misuse those funds.

In early 2003, the client reviewed her records for the case and realized that she had never received any proceeds from a \$20,000 settlement she had authorized. The client asked the respondent to account for and remit the remaining proceeds. Without investigation, the respondent erroneously informed her that she was not owed any other funds and provided no further accounting. In August 2003, after further requests and demands by the client, but before she requested an investigation by bar counsel, the respondent reviewed his IOLTA transactions and records, discovered the \$20,000 settlement payment, and remitted the net proceeds to the client with interest at the judgment rate.

The respondent's failure to maintain adequate and accurate records of his IOLTA account transactions violated Mass. R. Prof. C. 1.15(a), as in effect through June 30, 2004 (failure to keep complete records of receipt, maintenance and disposition of trust account funds).

The respondent's failure promptly to inform the client when he received the \$20,000 settlement payment, failure promptly to remit the net proceeds of that settlement, and failure to give the client an accurate accounting of all the proceeds violated Mass. R. Prof. C. 1.15(b), as in effect through June 30, 2004 (failure to notify client promptly of receipt of client's funds; failure promptly to deliver to client funds to which client is entitled; failure promptly to render full accounting to client upon request). The respondent's negligent failure to inform the client accurately in 2000 of all of the proceeds collected and due her and render a further accounting promptly in 2003 violated Mass. R. Prof. C. 1.4(a) (failure to keep client reasonably informed about status of matter; failure to comply promptly with reasonable requests for information) and Mass. R. Prof. C. 1.15(b), as in effect through June 30, 2004.

The respondent was admitted to the Massachusetts bar in 1974. He has no history of discipline.

The matter came before the Board of Bar Overseers on the parties' stipulation of facts and rule violations and an agreed recommendation for discipline by public reprimand. On March 12, 2007, the Board voted to accept the stipulation and impose the recommended discipline.

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

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