

Charles E Marion

Order (public reprimand) entered by the Board September 24, 2007.

SUMMARY<sup>1</sup>

From and after 2004, the respondent engaged in the practice of law and maintained an IOLTA account. The respondent used his IOLTA account for deposits and withdrawals of client or other trust funds.

From about July 2004 through September 2006, the respondent at times deposited personal funds to the IOLTA account and failed timely to withdraw all his earned fees from the account. The respondent thereby commingled trust funds with his own funds in the account, in violation of Mass. R. Prof. C. 1.15(b)(1) and (2).

During that period, the respondent failed to comply with other requirements of Rule 1.15. On occasion, the respondent withdrew client funds for fee payments from his IOLTA account by electronic transfers to a personal account that were not attributed to a particular client in a check register or otherwise, in violation of Mass. R. Prof. C. 1.15(e)(4). In addition, the respondent failed to keep required records for the IOLTA account, as follows:

- In violation of Mass. R. Prof. C. 1.15(f)(1)(B), the respondent failed to maintain a check register showing in chronological order the date and amount of each deposit; the date, amount and payee of each disbursement; the identity of the client matter to which each deposit and disbursement pertained; and the balance after each deposit and disbursement;
- In violation of Mass. R. Prof. C. 1.15(f)(1)(C), the respondent failed to maintain a chronological ledger for each client or third person for whom he received trust funds showing each related receipt and disbursement; the identity of the client matter for which each sum was deposited or disbursed; and the balance held for the client or third person;
- In violation of Mass. R. Prof. C. 1.15(f)(1)(D), the respondent failed to maintain a chronological ledger for his funds deposited to the account to accommodate reasonably expected bank charges showing each deposit and expenditure of his funds and the balance remaining;
- In violation of Mass. R. Prof. C. (f)(1)(E), the respondent failed to reconcile the IOLTA account and prepare reconciliation reports at least every sixty days showing the required reconciliation of check register, individual ledgers, and bank statements;
- In violation of Mass. R. Prof. C. (f)(1)(F), the respondent failed to retain all bank statements, canceled checks and other transaction records returned by the bank, and records of all deposits separately listing each deposited item and the client or third person for whom the deposit was made.

In July 2005, bar counsel received a report from the respondent's bank that a check drawn on the IOLTA account had been dishonored for insufficient funds. Between August 2005 and September 2006, bar counsel made several requests that the respondent bring his trust

account records into full compliance with Mass. R. Prof. C. 1.15 and document his compliance. The respondent failed to bring his records into full compliance with Rule 1.15 until about October 2006.

The respondent was admitted to the Massachusetts bar in 2003. He had 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. The Board indicated that, in the absence of a fully contested proceeding, it would not view this case as precedent for the appropriate sanction in future cases.

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

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