

THOMAS G.J. KALPERIS

Order (public reprimand) entered by the Board November 21, 2008.

SUMMARY¹

Since 2001 the respondent has had his own firm specializing in collections. The respondent maintained an IOLTA account to handle the receipt and distribution of funds received on behalf of creditors.

Between 2001 and August 2008, the respondent employed a succession of three bookkeepers to handle his IOLTA and business account records. During this period, the respondent allowed each of his bookkeepers to determine the procedures and format for keeping the respondent's IOLTA and business account records.

The respondent did not make a reasonable effort to ensure that his firm had in effect measures giving reasonable assurance that his bookkeepers' record keeping was compatible with the respondent's professional obligations under Mass. R. Prof. C. 1.15, and, in particular, that they maintained the records as required by Rule 1.15 from and after July 1, 2004. The respondent's IOLTA account was not properly reconciled every sixty days, the check register lacked client identifiers and was not maintained contemporaneously with running balances, the respondent did not maintain individual ledgers for each client matter, and there was no ledger for the respondent's personal funds in the account to cover bank charges.

On or about October 31, 2006, a check drawn on the respondent's account was dishonored for insufficient funds. Upon receiving notice of the dishonored check, the respondent immediately deposited personal funds in the IOLTA account to cover the shortfall.

Between December 15, 2006, and July 2, 2008 bar counsel instructed the respondent on six occasions to bring his account records into compliance with Mass. R. Prof. C. 1.15. The respondent did not do so until about August 2008.

The respondent's conduct in failing to perform a three-way reconciliation of the account violated Mass. R. Prof. C. 1.15(f)(1)(E). The respondent's conduct in failing to keep an account ledger with a client identifier after every transaction and list of every transaction and running balance violated Mass. R. Prof. C. 1.15(f)(1)(B). The respondent's conduct in failing to keep individual client ledgers with a list of every transaction and running balance violated Mass. R. Prof. C. 1.15(f)(1)(C). The respondent's conduct in failing to keep a ledger or other records of his personal funds for bank fees and expenses violated Mass. R. Prof. C. 1.15(f)(1)(D). The respondent's conduct in failing to provide adequate guidelines for nonlawyer assistants and his failure to ensure that their conduct was compatible with his professional obligations violated Mass. R. Prof. C. 5.3(a) and (b).

On November 5, 2008, bar counsel filed a petition for discipline and the parties filed the respondent's answer and a stipulation in which the parties agreed that the appropriate sanction was public reprimand. On November 10, 2008, the Board of Bar Overseers voted to

sanction the respondent by public reprimand.

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

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