

**BRETT LEVY**

Order (public reprimand) entered by the Board April 28, 2009.

**SUMMARY**<sup>1</sup>

In 2001, the respondent represented a woman who was injured in an automobile accident. The respondent settled the woman's personal injury case in January 2004 for \$12,500 and received the \$12,500 settlement check on January 26, 2004.

The respondent employed a bookkeeper who managed his IOLTA account and a paralegal responsible for distributing funds received on behalf of clients. The respondent did not make reasonable efforts to ensure that his firm had in effect measures giving reasonable assurance that his employees' conduct conformed to his professional obligations.

On February 3, 2004, the bookkeeper deposited the client's settlement check into the respondent's IOLTA account in the normal course. Neither the respondent nor the paralegal notified the client that the funds had been received. The paralegal started to pay outstanding bills related to the client's car accident, but left the respondent's employ in August 2004 before paying the client her net share of the settlement or a \$775 lien from Blue Cross/Blue Shield.

After August 2004, the respondent took no action of substance to determine the status of the client's case. The respondent was unaware that the paralegal had not distributed all of the client's settlement funds. From at least July 2004 and continuing to May 2007, neither the respondent nor his bookkeeper prepared or maintained individual client ledgers for each of the respondent's clients and neither performed the required three-way reconciliations of the respondent's IOLTA account.

The client contacted the respondent for a status report on her case on about May 11, 2007. The respondent reviewed the client's file and his IOLTA account records and saw that the client's accident case had settled in January 2004. He also saw that his office had paid all liens except for Blue Cross/Blue Shield. On May 14, 2007, the respondent paid \$775 to Blue Cross/Blue Shield on the client's behalf. The respondent also sent the client her net share of the settlement proceeds with interest.

The respondent's failure to supervise his employees to make sure their conduct conformed to his own professional obligations violated Mass. R. Prof. C. 5.3(b). The respondent's failure promptly to notify the client that her settlement funds had been received violated Mass. R. Prof. C. 1.4(a) and 1.15(c). The respondent's failure to pay promptly to his client and third parties the funds due to them violated Mass. R. Prof. C. 1.1, 1.3, and 1.15(c). The respondent's failure to prepare and maintain three-way reconciliation reports and individual client ledgers documenting the receipt and disbursement of funds for each of his clients violated Mass. R. Prof. C. 1.15(f)(1)(C) and E.

The respondent was admitted to the Massachusetts bar in December 1994. 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 April 13, 2009, 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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