

BRUCE E. HOPPER

Order (public reprimand) entered by the Board August 14, 2009.

SUMMARY¹

Since 1991 the respondent had his own firm specializing in personal injury, criminal, and civil litigation. The respondent maintained an IOLTA account to handle the receipt and distribution of funds received on behalf of creditors.

Since July 1, 2004, the respondent employed a bookkeeper to handle his IOLTA and business account records. The respondent allowed his bookkeeper 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 he 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, the respondent did not calculate a running balance, 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 February 18, 2006, the respondent wrote a check in the amount of \$8,185.07 to a client as his share of the proceeds from a personal injury settlement. The client did not negotiate the check until August 2006, by which time the account balance was insufficient due to the respondent's negligent conduct in writing a check to another client in an amount exceeding the funds on deposit for the second client. Once alerted to the deficit, the respondent immediately deposited funds into the IOLTA account to correct the error. The client's check was presented again and cleared. The respondent did not intentionally use client funds for his personal use or gain.

Bar counsel asked the respondent on November 17, 2006, and several times thereafter to bring his account records into compliance with Mass. R. Prof. C. 1.15. The respondent did not do so until about October 10, 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 a nonlawyer assistant and his failure to ensure that her conduct was compatible with his professional obligations violated Mass. R. Prof. C. 5.3(a) and (b). The respondent's negligent

misuse of trust funds and his conduct in creating a negative balance for a client violated Mass. R. Prof. C. 1.15(b)(1) and 1.15(f)(1)(C).

On May 28, 2009, 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 June 8, 2009, 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.

Site Index

Please direct all questions to webmaster@massbbo.org.

© 2003. Board of Bar Overseers. Office of Bar Counsel. All rights reserved.