

WILLIAM L. CHIGNOLA, JR.

Order (public reprimand) entered by the Board March 25, 2009.

SUMMARY¹

In the spring of 2006, the respondent was consulted by John Smith (a pseudonym), whom he had previously represented in another matter. Smith was an alcoholic with a history of repeated relapses after detoxification and rehabilitation. Smith's sole source of financial support was a fund established by his late mother and administered by a financial services firm.

Smith asked the respondent to help him arrange and undergo further treatment for his alcoholism. The respondent was also asked by Smith and the fund administrator to manage Smith's financial and personal affairs while Smith was completing treatment. The respondent agreed to undertake those tasks.

In May 2006, Smith executed a durable power of attorney naming the respondent as his attorney-in-fact for that purpose. Between about June 2006 and February 2007, the respondent obtained from the fund administrator a total of \$90,000 in distributions to cover Smith's ongoing treatment and living expenses. The respondent applied about \$47,000 to pay some of Smith's medical and living expenses.

During the same period, the respondent charged and collected for himself a total of about \$43,000 from Smith's funds as fees for his services to Smith. Most of the charges were for non-legal services, including transporting Smith to and from treatment, paying Smith's bills, depositing Smith's funds, collecting Smith's mail, and storing and maintaining Smith's belongings. The respondent paid himself for all those services at the legal fee rate of \$250 per hour. The fees charged and collected by the respondent for non-legal services were clearly excessive.

The respondent held some funds belonging to Smith in his IOLTA account and withdrew his fee payments from those funds. The respondent failed to give Smith, on or before the date of each fee withdrawal, an itemized bill or other written accounting of the services rendered, written notice of amount and date of the withdrawal, and a statement of the balance of Smith's funds in the IOLTA account after the withdrawal. Upon his final distribution of Smith's funds, the respondent failed to give Smith a complete and accurate written accounting of the funds.

In addition, during 2006 and 2007, the respondent deposited earned fees to his IOLTA account and failed timely to withdraw all his earned fees from the account. From at least May 2006 through November 2007, the respondent failed to reconcile the IOLTA account or keep required account records.

By charging and collecting clearly excessive fees for his services to Smith, the respondent violated Mass. R. Prof. C. 1.5(a). By failing to provide Smith with contemporaneous written

disclosure of each fee withdrawal and a full written accounting upon final distribution, the respondent violated Mass. R. Prof. C. 1.15(d)(1) and (2).

By depositing and retaining non-trust funds to the IOLTA account, the respondent violated Mass. R. Prof. C. 1.15(b)(2). By failing to reconcile his IOLTA account and maintain all required account records, the respondent violated Mass. R. Prof. C. 1.15(f)(1)(B)-(F).

The respondent had no history of discipline. He paid \$20,000 to Smith as a refund of the difference between legal and non-legal rates for his services. In mitigation of his record-keeping violations, the respondent suffered from health problems and severe depression during 2006 and 2007 for which he has since received treatment.

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 9, 2009, the Board voted to accept the stipulation and impose the recommended discipline.

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.