

DAVID A. MOLLE

Order (public reprimand) entered by the Board May 26, 2009.

SUMMARY¹

The respondent received a public reprimand for retaining earned fees in his IOLTA account, negligent misuse of client funds, and failing to maintain adequate trust account records.

The respondent is a sole practitioner admitted to the bar in 2001. Between 2007 and 2008, the respondent failed to withdraw earned fees from his IOLTA account at the earliest reasonable time after his interest became fixed, thereby commingling his own funds with clients' funds. His conduct in this regard was in violation of Mass. R. Prof. C. 1.15(b).

Commencing at least as of 2007 and continuing through 2008, the respondent failed to maintain complete records of the receipt, maintenance, and disposition of client funds in the IOLTA account in violation of Mass. R. Prof. C. 1.5(f). During the same time period, the respondent failed to prepare and maintain a check register as required by Mass. R. Prof. C. 1.15(f) (1) (B); failed to prepare and maintain a chronological ledger as required by Mass. R. Prof. C. 1.15(f) (1) (C); and failed to prepare and maintain reconciliation reports at least every sixty days as required by Mass. R. Prof. C. 1.15(f) (1) (E).

In August of 2007, as a result of his inadequate records, the respondent mistakenly drew out more fees than he was owed. This negligent misuse of trust funds violated Mass. R. Prof. C. 1.15(f) (1) (C). On September 27, 2007, the respondent's bank telephoned him and informed him that he did not have sufficient funds in his IOLTA account to pay a client's check. The respondent rectified the deficiency by depositing \$2,000 in personal funds to his IOLTA account the same day. The client's check cleared the following day and no deprivation occurred.

The respondent took no steps thereafter to determine the source of the deficiency or to correct his record-keeping procedures until directed to do so by bar counsel in 2008. In February 2009, the respondent brought his IOLTA account into compliance and is keeping IOLTA account records as required by the Mass. R. Prof. C. 1.15.

On April 3, 2009, the parties filed a stipulation jointly recommending that the respondent a public reprimand for these violations. On April 13, 2009, the Board of Bar Overseers voted unanimously to administer a public reprimand to the respondent.

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

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