

BARRANDO BUTLER

Order (public reprimand) entered by the Board August 31, 2010.

SUMMARY¹

In February 2008, the respondent was retained to represent a purchaser of a condominium unit that had been recently foreclosed. It was agreed that the purchase would be a cash transaction. GMAC was the seller and the Harmon Law Offices represented the seller. The closing was scheduled for April 23, 2008.

On April 22, 2008, the respondent received from the buyer the anticipated amount due by bank check payable to the respondent in the amount of \$32,224.48. The respondent negotiated the buyer's check and obtained a bank check in the amount of \$25,059.48, representing the net due to seller, leaving a balance of \$7,165.00, that was to be used to pay certain debits owed by the seller or buyer. The respondent deposited the balance of the buyer's funds into an IOLTA account that the respondent regularly used for personal or business purposes, unrelated to any client matter.

The respondent did not keep required records of the account, reconcile the account, or maintain a chronological check register, records of deposit or individual client ledgers for client funds deposited to the account, all as required by Mass. R. Prof. C. 1.15(f).

On April 23, 2008, at closing, the respondent wrote checks from the account for various required disbursements, including checks payable to Harmon and GMAC for the amounts due them. On May 5, 2008, the account was automatically debited \$2,217.00 for a personal monthly expense previously authorized by the respondent.

On June 3 and 6, 2008, the IOLTA checks payable to Harmon and GMAC, respectively, were presented for payment. As a result of the respondent's inadequate records and his failure to keep track of the automatic debit, there were insufficient funds in the account for both checks, and they were returned. The respondent paid Harmon and GMAC from personal funds the amounts of the checks plus bank fees within days of the respondent's receipt of the notices of the two dishonored checks.

The respondent's conduct in commingling personal and client funds in the account was in violation of Mass. R. Prof. C. 1.15(b). The respondent's conduct in authorizing a periodic automatic debit from the account for a personal expense was in violation of Mass. R. Prof. C. 1.15(e)(2). The respondent's failure to keep required records of the account was in violation of Mass. R. Prof. C. 1.15(f). Finally, the respondent's negligent misuse of client funds with no intent to deprive was in violation of Mass. R. Prof. C. 1.15(f).

There were no factors on aggravation or mitigation of his misconduct. At the suggestion of bar counsel, the respondent received trust account training. He has closed his IOLTA accounts and no longer accepts fiduciary funds in trust.

This matter came before the board on a stipulation of facts and disciplinary violations and a

joint recommendation for discipline by public reprimand. On August 16, 2010, the board voted to adopt the parties' stipulation and proposed sanction.

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

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