

**CHARLES MCKIM MITCHELL**

**Public Reprimand No. 2011-28**

**Order (public reprimand) entered by the Board January 4, 2012.**

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

Charles M. Mitchell, the respondent, was admitted to the practice of law in Massachusetts on January 21, 1985. The respondent received a public reprimand for the following misconduct.

**Commingling**

From February of 2010 through October of 2010, the respondent commingled client and personal funds in his IOLTA account at the Bank of America.

By failing to hold trust property separate from his own property, the respondent violated Mass. R. Prof. C. 1.15(b).

**Failure to Provide Diligent Representation**

In 2006, a client engaged the respondent to represent his interests with respect to the administration of the estate of his father. Another attorney was the administrator of the estate, and the client had concerns about the administrator's expenditures of estate funds, particularly fee payments to himself both as administrator and as attorney. After the administrator filed his Second and Final Account, the respondent filed objections to the account on behalf of his client. Following that, the respondent failed to respond to numerous attempts by the administrator to contact him about the objections to his account. The respondent took no further action either to advance or resolve the objections. As a result of respondent's inaction, the estate remained open through the end of 2010, when the client contacted bar counsel. During that period, the respondent also failed to respond to many attempts by his client to reach him.

By failing to follow through on his client's objections to the Second and Final Accounting, the respondent failed to seek the objectives of his client by reasonably available means, in violation of Mass. R. Prof. C. 1.2(a), and failed to provide diligent representation to his client, in violation of Mass. R. Prof. C. 1.3.

By failing to respond to his client's numerous attempts to contact him about the matter, the respondent violated Mass. R. Prof. C. 1.4.

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<sup>1</sup> Complied by the Board of Bar Overseers based on the record of proceedings before the Board.

### **Lack of Cooperation in Bar Counsel's Investigation**

In connection with an investigation by bar counsel, the respondent received two letters for bar counsel seeking information and failed without good cause to reply to either or otherwise contact bar counsel. The respondent then failed to appear in response to a subpoena issued by the Board of Bar Overseers. On December 23, 2010, the Supreme Judicial Court issued an order of administrative suspension. The Court reinstated the respondent in January 2011, after he finally provided bar counsel with a response to her requests for information.

The respondent knowingly failed to respond to a lawful demand for information from a disciplinary authority, and failed without good cause to cooperate with bar counsel, as provided in Supreme Judicial Court Rule 4:01, § 3.

By failing to cooperate with bar counsel's investigation of alleged misconduct, the respondent violated Mass. R. Prof. C. 8.1(b) and 8.4 (g).

In mitigation, the respondent suffers from serious health problems. He has sought and is receiving treatment from medical doctors and others to address these problems and is actively involved in his treatment. In addition, during the period of non-cooperation with bar counsel, the respondent was hospitalized several times and was unable to work for most of that period.

Further in mitigation, the respondent has voluntarily contacted the Lawyer Office Management Assistance Project (LOMAP) and has initiated a consultation with LOMAP concerning his office management practices, including the maintenance of his IOLTA account. The respondent will fully cooperate with LOMAP's consultation and will implement any and all of LOMAP's suggestions for the improvement of his office and IOLTA account management.

The matter came before the Board of Bar Overseers on an agreed recommendation for discipline by public reprimand based on a stipulation of the parties. On December 12, 2011, the Board of Bar Overseers voted to administer a public reprimand to the respondent.