

DAVID E. ASHWORTH

Public Reprimand No. 2011-08

Order (public reprimand) entered by the Board on April 27, 2011.

SUMMARY¹

From 1987 through 2009, the respondent had his own firm specializing in civil litigation. The respondent maintained an IOLTA account to handle the receipt and distribution of client funds.

Between January 2009 and December 2009, the respondent's IOLTA account was not properly reconciled every sixty days and the check register lacked client identifiers. The respondent did not calculate a running balance after each transaction. The respondent also 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.

Between January 2009 through December 2009, the respondent on occasion negligently misused trust funds to pay unrelated client obligations. As a result, the respondent created negative balances for individual clients. The respondent deposited personal funds to the account to pay these obligations. By December 2009, the respondent had brought his IOLTA account record keeping into compliance with Mass. R. Prof. Conduct 1.15.

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). His 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 and failing to keep a ledger of his personal funds for bank fees and expenses violated Mass. R. Prof. C. 1.15(f)(1)(C), and (D). The respondent's negligent misuse of client funds and his issuing checks that created a negative balance for individual clients in the IOLTA account violated Mass. R. Prof. C. 1.15(b) and (f)(1)(C). The respondent's conduct in depositing personal funds to the IOLTA account violated Mass. R. Prof. C. 1.15(b).

On March 24, 2011, 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

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

was public reprimand. On April 11, 2011, the Board of Bar Overseers voted to sanction the respondent by public reprimand.