

SHERWIN L. KANTROVITZ

Public Reprimand No. 2012-18

Order (public reprimand) entered by the Board on October 10, 2012.

SUMMARY¹

The respondent has his own law firm concentrating in personal injury and workers' compensation cases. Between January 1, 2010, and April 1, 2012, the respondent's IOLTA account was not properly reconciled every sixty days and the check register lacked client identifiers. The respondent also did not calculate a running balance after each transaction or maintain individual ledgers for each client matter.

The respondent's contingent fee agreements specify that he is entitled to a percentage of the gross settlement amount plus reimbursement for expenses associated with each case, with the client entitled to the net remaining. Between January 1, 2010, and April 1, 2012, the respondent kept a surplus of firm funds in his IOLTA account. On multiple occasions, after agreeing to settle a case but before the settlement check arrived, the respondent used the surplus firm funds to advance himself the fees, and reimburse himself for expenses, that he anticipated receiving from the settlement. After receiving the settlement check, he promptly issued a check to the client for the client's share. The respondent then left the amount of his fees and expenses in the IOLTA account, thereby replenishing the surplus of firm funds in the IOLTA account.

By April 1, 2012, 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 and a ledger for bank fees and expenses with a list of every transaction and running balance violated Mass. R. Prof. C. 1.15(f)(1)(C) and (D). The respondent's commingling of firm funds with client funds violated Mass. R. Prof. C. 1.15(b).

On August 7, 2012, 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 was public reprimand. On September 10, 2012, the Board of Bar Overseers voted to sanction the respondent by public reprimand.

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