

SUSAN REGINA BYRD
Public Reprimand No. No. 2012-22

Order (public reprimand) entered by the Board on December 19, 2012.

SUMMARY¹

The respondent practiced law with her husband, first as an associate and later as a partner, until her husband's death in October 2007. During the partnership, the respondent and her husband were signatories on an IOLTA account and used the account for the deposit and disbursement of trust funds for their respective cases.

Between July 2004 and October 2007, neither the respondent nor her husband made reasonable efforts to ensure that their firm had in effect measures giving reasonable assurance that they conformed to the professional conduct rules for trust accounts. On occasion, they deposited personal or business funds to the partnership IOLTA account that were substantially more than, and were not intended to pay, bank charges. The respondent failed to make reasonable efforts to ensure that her husband reconciled the account at least every sixty days by comparing and reconciling the register balance with the adjusted bank statement balance and the total of all client matter balances. The respondent failed to keep adequate records for funds belonging to her clients in the partnership IOLTA account and failed to make reasonable efforts to ensure that her husband kept the following records required by Mass. R. Prof. C. 1.15(f):

- a chronological check register with the date and amount of each deposit; the date, amount and payee of each disbursement; the identity of the client matter to which each deposit and disbursement pertained; and the balance after each deposit and disbursement;
- a chronological ledger for each client matter or third person for whom trust funds were held showing each related receipt and disbursement; the identity of the client matter for which each sum was deposited or disbursed; and the balance held in each client matter;
- a chronological ledger for non-trust funds deposited to the account to accommodate reasonably expected bank charges showing each deposit and expenditure and the balance remaining;
- reports prepared at least every sixty days and showing the required reconciliation of check register, individual ledgers, and bank statements.

During the fall of 2007, after her husband's death, the respondent assumed exclusive control of the partnership IOLTA account and account records. Thereafter the respondent failed to keep adequate records for the account and failed to reconcile the account by comparing and reconciling the account's register balance with the adjusted bank statement

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

balance and the total of all client matter balances. The respondent closed that account in November 2008.

In addition, in late 2007, the respondent opened a new IOLTA account as sole signatory. Prior to the summer of 2011, the respondent failed to maintain accurately all required account records and failed to perform the required reconciliations. In the summer of 2011, the respondent brought her records for the new IOLTA account into full compliance with Rule 1.15.

In 2009 and 2010, the successor counsel for clients formerly represented by the respondent's husband asked her to account for the clients' funds that had been deposited to and disbursed from the partnership IOLTA account while the husband represented them and, thereafter, when the respondent represented one remaining client. The husband had not accounted to the clients for the disposition of all their funds. The respondent failed to provide an accounting until about September 2011, after clients' counsel had asked bar counsel to investigate.

By depositing personal or business funds to the partnership IOLTA account, the respondent violated Mass. R. Prof. C. 1.15(b)(2). By failing to reconcile the IOLTA accounts and maintain required records for those accounts, the respondent violated Mass. R. Prof. C. 1.15 (f)(1)(B)-(E). By failing promptly to render a full written accounting to the former clients, the respondent violated Mass. R. Prof. C. 1.15(d)(1). By failing to take reasonable measures to ensure that her firm's maintenance of records for the partnership IOLTA account comported with the requirements of Rule 1.15, the respondent violated Mass. R. Prof. C. 5.1(a).

The matter came before the Board of Bar Overseers on the parties' stipulation of facts and rule violations and an agreed recommendation for discipline by public reprimand. On November 19, 2012, the board voted to accept the stipulation and to impose a public reprimand without further proceedings.