

WILLIAM F. MALONEY
Public Reprimand No. 2016-14
Order (public reprimand) entered by the Board on September 30, 2016.
SUMMARY¹

The respondent received a public reprimand for his mishandling and failure to provide an accounting of funds entrusted to him as the attorney-in-fact of a disabled man.

The respondent had been friends since childhood with a man who suffered from mental illness. On January 4, 2006, a permanent guardian of the person was appointed with authority to make decisions regarding his friend's medical care. On March 27, 2006, the friend signed a durable power of attorney naming the respondent as his attorney-in-fact.

Between March 2007 and December 2014, the respondent received approximately \$101,200 in Social Security checks payable to his friend. The respondent deposited the funds to client trust accounts and disbursed them appropriately but failed to maintain contemporaneous records documenting each receipt and disbursement from the Social Security funds.

Between January 2008 and June 2013, the respondent also received a total of \$59,367.83 in distributions from an irrevocable trust on behalf of his friend. The respondent deposited the trust funds to IOLTA accounts that he maintained at three banks. He did not deposit the trust funds to an interest-bearing account.

On April 8, 2014, the respondent filed a petition in Middlesex Probate and Family Court seeking to be appointed as conservator for his friend. The court appointed an attorney to represent the interests of the friend in the matter. On July 24, 2014, the attorney wrote to the respondent and requested that he account for all funds he had received as attorney-in-fact. Due to his poor record-keeping, the respondent did not provide the accounting. On October 16, 2014, the court ordered the respondent to render an accounting by November 1, 2014, to the attorney and the guardian of the person. In about November 2014, the respondent provided copies of bank statements for the account where he had held the funds for the period from March 2007 through November 2014, but did not render a complete accounting.

After bar counsel opened an investigation, the respondent withdrew \$59,367.83 from his IOLTA account on February 23, 2015, and paid the trust funds to the court-appointed attorney. In March and May of 2015, the respondent produced lists of deposits and disbursements from the Social Security funds that he had held in client trust accounts.

The friend died on April 11, 2015. On June 13, 2016, the former guardian was appointed personal representative of the friend's estate. On August 24, 2016, the respondent paid to the

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

personal representative the remaining \$2,625.97 he had been holding in his IOLTA accounts from the Social Security funds, plus an additional \$2,292.97 in interest from his own funds.

Between at least January 2007 and February 2016, the respondent failed to keep required records for his IOLTA accounts, including a chronological check register with a running balance after every transaction, and individual client records for each client matter and for the respondent's own funds in the accounts. During that period, the respondent also failed to perform three-way reconciliations for the IOLTA accounts at least every sixty days.

On October 27, 2015, the respondent opened a new IOLTA account. Since then, he has maintained the required trust account records for the new account, and has closed his other IOLTA accounts.

By failing to account to the court-appointed attorney and guardian, and to render an accounting as ordered by the court, the respondent violated Mass. R. Prof. C. 1.15(d)(1), and 3.4(c). By failing to deposit the trust distributions he received to an interest-bearing account, the respondent violated Mass. R. Prof. C. 1.15(e)(5), of the rules in effect before July 1, 2015. By failing to maintain proper IOLTA records, the respondent violated Mass. R. Prof. C. 1.15(f)(1)(B), (C), (D), and (E). In mitigation, the respondent attended trust account training and brought his trust account records into compliance. He reimbursed the estate for the interest the trust funds would have earned if they had been held in an interest-bearing account. He also did not charge a legal fee for handling the client funds pursuant to the power of attorney.

The respondent was admitted to practice in 1976, and had no history of discipline.

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint recommendation for discipline. The board accepted the parties' recommendation and imposed a public reprimand.