

ANTHONY K. ORTIZ

Public Reprimand No. 2018-7

Order (public reprimand) entered by the Board on June 20, 2018.

SUMMARY¹

The respondent negotiated a \$14,000 settlement of a client's personal injury claim. Prior to the settlement, the client had incurred certain medical expenses for which MassHealth had reimbursed the relevant providers a total of \$1,549.78.

The respondent received a settlement check from the opposing party's insurance company in the amount of \$14,000. The check was made jointly payable to the respondent, his client, the Commonwealth of Massachusetts, and Lawrence General Hospital. Upon receipt of the check, the respondent deposited the funds into his IOLTA account without obtaining any of the other payees' endorsements on the check. He thereafter disbursed the funds to his client (\$9,135 in net settlement proceeds), to himself (\$4,765 for legal fees and expenses), and to Lawrence General Hospital (\$100 for medical records). The respondent did not notify the Commonwealth of his receipt of the funds or disburse any portion thereof to the Commonwealth.

The respondent was aware that M.G.L. c.118E, section 22(j), placed him under an affirmative duty to notify the Commonwealth of his efforts to obtain a recovery on behalf of the client. As a result of his failure to provide such notice, the respondent did not learn of the \$1,549.78 MassHealth lien until after he had distributed the settlement funds. The respondent thereafter received demands that he reimburse MassHealth the amount of its lien. He subsequently reimbursed MassHealth in response to bar counsel's investigation.

By failing to comply with provisions of M.G.L. c. 118E, section 22(j), and by depositing the check and disbursing the proceeds thereof without otherwise ascertaining from the Commonwealth of Massachusetts, as one of the listed payees, the amount of the funds it claimed to be owed, the respondent violated Mass. R. Prof. C. 1.1, 1.3, and 1.15(c).

In a second matter, the respondent agreed to represent the defendant in two criminal cases in Lawrence District Court. He undertook the representation on the basis of an oral agreement that called for a flat fee of \$2,500 payable in \$500 installments.

At no point at the commencement of or during the representation did the respondent communicate in writing the scope of the representation or the basis or rate of the fee for which the client would be responsible.

By failing to communicate the scope and terms of the engagement in writing at the commencement of the representation or within a reasonable time thereafter, the respondent violated Mass. R. Prof. C. 1.5(b)(1).

The respondent was admitted to practice in 1985. He previously received an admonition for misconduct that included a failure to use a written fee agreement.

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint recommendation for discipline. The Board of Bar Overseers accepted the parties' recommendation and imposed a public reprimand on June 11, 2018.

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