PETER B. CLIFFORD
Public Reprimand No. 2013-12
Order (public reprimand) entered by the Board on August 14, 2013.
SUMMARY[1]

The respondent had his own firm and concentrated his practice in the area of criminal defense. The respondent maintained an IOLTA account to handle the receipt and distribution of client funds. From at least January 1, 2012, through October 21, 2012, the respondent's IOLTA account was not properly reconciled every sixty days; the check register lacked client identifiers; the respondent did not list every transaction and calculate a running balance; the respondent 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.

On about February 13, 2012, the respondent agreed to represent a client in a district court criminal matter for an hourly fee of $200/hour, with a $2,000 up-front retainer. That day, the respondent represented the client at his arraignment. The client's fiancée paid the respondent $1,000 in cash on behalf of the client as a partial retainer.

Between February 13, 2012, and about April 4, 2012, the respondent provided at least five hours of legal services on behalf of the client and paid himself the entire $1,000. On or before paying himself, the respondent did not deliver to the client in writing (i) an itemized bill or other accounting showing the services rendered, (ii) written notice of the amount and date of the payment, and (iii) a statement of the balance of the client's funds remaining after the payment.

On April 4, 2012, the respondent learned that the client was scheduled to be arraigned in the superior court, and met with the client to discuss the pending indictment. The client terminated the respondent's representation and requested that he account for his fee and return the unearned portion of the retainer. The respondent did not provide the client with an itemized bill or other accounting. On July 11, 2012, after bar counsel opened a file to investigate a complaint from the client, the respondent provided the accounting to the client.

The respondent's conduct in failing to perform a three-way reconciliation of the account at least every sixty days 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 a list of every transaction and running balance violated Mass. R. Prof. C. 1.15(f)(1)(B). His conduct in failing to keep individual client ledgers with a list of every transaction and running balance and failing to keep a ledger or other records of his personal funds for bank fees and expenses violated Mass. R. Prof. C. 1.15(f)(1)(C), and (D). The respondent's conduct in failing to deliver to the client an itemized bill or other account showing the services rendered on or before paying himself the fees violated Mass. R.

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

Prof. C. 1.15(d)(2). His conduct in failing to promptly render a full written accounting regarding the retainer to the client upon the client's request violated Mass. R. Prof. C. 1.15(d)(1).

The respondent fully cooperated with bar counsel's investigation and brought his records into compliance. In aggravation, the respondent had received an admonition in 2006 for failing to account for a retainer after being discharged. *Admonition No. 06-30*, 22 Mass. Att'y Disc. R. 913 (2006).

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint recommendation for public reprimand. The board accepted the parties' recommendation, and on July 22, 2013, the board ordered a public reprimand.