

**MICHAEL J. POWERS****Public Reprimand No. 2013-3****Order (public reprimand) entered by the Board on February 21, 2013.****SUMMARY**<sup>1</sup>

From May 2011 through May 2012, the respondent had his own firm concentrating in trusts and estates and personal injury litigation. The respondent maintained an IOLTA account to handle the receipt and distribution of client funds.

Between May 2011 and May 2012, the respondent's IOLTA account was not properly reconciled every sixty days and the check register lacked client identifiers and a running balance after every transaction. The respondent did not calculate a running balance after each transaction and did not maintain individual ledgers for each client matter or a ledger of personal funds maintained in the account for bank fees and expenses. He also deposited other personal funds to the account.

From May 1, 2011, through May 30, 2012, the respondent withdrew his earned fees from the IOLTA account via cash withdrawals and by authorizing payments from his IOLTA account directly to creditors or vendors for his personal expenses. On August 16, 2011, the respondent wrote an IOLTA account check to pay the registration fee for a personal vehicle. The check was dishonored due to insufficient funds. The respondent deposited personal funds into the account and wrote a replacement check.

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 with a list of every transaction and running balance violated Mass. R. Prof. C. 1.15(f)(1)(C). The respondent's conduct in failing to keep a ledger for his personal funds in the account for bank fees and expenses violated Mass. R. Prof. C. 1.15(f)(1)(D). The respondent's conduct in depositing personal funds in the account with client funds violated Mass. R. Prof. C. 1.15(b). The respondent's conduct in withdrawing earned fees from the IOLTA account via cash

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<sup>1</sup> Compiled by the Board of Bar Overseers based on the record of proceedings before the board.

withdrawals and by authorizing payments directly to creditors or vendors for his personal expenses violated Mass. R. Prof. C. 1.15(e)(3) and (4).

On January 8, 2013, 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 February 15, 2013, the Board of Bar Overseers voted to sanction the respondent by public reprimand.