

IN RE: THOMAS EISENSTADT

NO. BD-2012-067

S.J.C. Order of Term Suspension entered by Justice Cordy on January 16, 2014.¹

Page Down to View Memorandum of Decision

¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No. BD-2012-067

IN RE: THOMAS EISENSTADT

MEMORANDUM OF DECISION

This case is before the court on an Information filed by the Board of Bar Overseers (board) recommending that the respondent attorney, Thomas Eisenstadt, be disbarred. The respondent did not contest the allegations of misconduct underlying the board's findings and recommendation -- essentially that in two different matters he received settlement funds on behalf of clients and converted those client funds to his own use, intending and actually depriving them of their use. While restitution has been made to those clients, medical liens incurred by them remain, at least in part, unpaid.

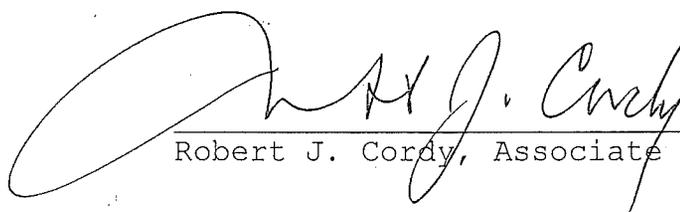
The procedural history of this case extends back more than two years. During the course of bar counsel's investigation of activity in respondent's IOLTA account, the respondent failed to comply fully with bar counsel's request for documents, and it became apparent that there was very little chance of reconstructing the IOLTA account because the recordkeeping

requirements of Mass. R. Prof. C. 1:15, as appearing in 401 Mass. 1301 (1988), and the IOLTA Guidelines, had simply not been complied with.

On January 17, 2013, this court temporarily suspended the respondent from the practice of law. It is apparent that the terms of the temporary suspension order (whether wilful or not) have not been complied with.

On May 20, 2013, a Petition for Discipline was filed to which the respondent did not respond. The allegations of misappropriation in the petition were subsequently deemed admitted. The respondent eventually filed a memorandum on disposition on September 9, 2013, in which he sought a short term suspension on the grounds that the converted funds had been repaid, and that his long career in public service and his personal and family circumstances warranted consideration in mitigation. The respondent also argued at the hearing before this court that his client (like other long-practicing solo practitioners) was simply unable to adjust to or implement the detailed IOLTA accounting requirements now incorporated into the Rules of Professional Conduct. Consequently, he argued that he should be permitted to continue to practice law but only on the type of cases that did not ordinarily require the use of IOLTA accounts (e.g., appointed criminal cases).

While the respondent's circumstances are sympathetic and, in a way, tragic, the court's primary concern must be the protection of the public. I conclude that, at a minimum, a suspension from the practice of law is necessary in this regard. Accordingly, I order that the respondent be suspended from the practice of law for two years, effective as of the date of the entry of this judgment.



Robert J. Cordy, Associate Justice

Dated: January 16, 2014