

## **Recent CSB Decisions:**

### **October 15, 2020 Clients' Security Board Decisions:**

- Awarded \$42,980.25 to a mother as custodian under the Massachusetts Uniform Transfers to Minors Act for her son. The mother's lawyer, Peter R. Kaplan of Lynn, had deposited the son's inheritance check to his IOLTA account in October 2016 while he prepared a trust to receive the funds. By August 2018, Mr. Kaplan had spent the funds for his own purposes. He admitted his theft and was disbarred for other conduct in November 2018.
- Awarded \$1,973.89 to the personal representative of a client's estate, to reimburse the client for a 2012 settlement his lawyer had received before the lawyer's own death in 2013. The client did not learn that the settlement had been paid until 2018, when the defendant moved to dismiss the underlying case and presented a copy of his settlement check which the lawyer had deposited to his IOLTA account. The lawyer, who had no disciplinary history, died before distributing the funds to the client.
- Awarded \$6,000.00, \$1,525.00, \$2,550.00, and \$2,000.00, respectively, to four domestic relations clients of Josiah Weiss, formerly of North Andover. Mr. Weiss received advance retainers from each client; deposited the unearned retainers to his personal account; spent the funds for his benefit; and did no legal work of substance for the four clients. Mr. Weiss failed to reimburse his clients for the unearned fees and was disbarred in August 2020.
- Dismissed a client's claim for \$249.00, which the client claimed was an unearned fee paid to a lawyer for work on a patent application. The lawyer provided documentation showing the client had paid him \$160.00 in 2015 to review a patent application and the work he had performed for the fee. The Board found no defalcation and dismissed the claim.

### **September 17, 2020 Clients' Security Board Decisions:**

- Awarded \$20,462.00, \$1,000.00, and \$1,000.00, respectively, to three clients of Richard J. Reilly, Jr., of East Sandwich. In the first case, Mr. Reilly negotiated a settlement of a civil lawsuit without his clients' knowledge or permission, and stole \$20,462.00 from the settlement proceeds, including an unused \$1,000.00 advance expense retainer. In the remaining two cases, Mr. Reilly represented class action plaintiffs in a case against the developers of a timeshare complex in Dennisport. He charged each client a \$1,000.00 advance expense retainer that he never used and then settled a separate lawsuit against the same developer by agreeing to dismiss the class action without informing his class action clients and without their consent. Mr. Reilly stole the two unused \$1,000.00 expense retainers and was indefinitely suspended in 2019 and disbarred in 2020.

- Awarded \$13,587.17 to a client injured in a 2006 automobile accident who hired a law firm to recover money damages. The case settled for \$30,000.00 of which the client's net share was \$13,587.17. After the lawyer deposited the \$30,000.00 to the firm's IOLTA account, the lead partner, Glen R. Vasa of Brockton, misused the client's funds for his own purposes, and failed to pay the client his net share. Mr. Vasa was suspended for four years in May 2017 and disbarred in July 2017.
- Dismissed a claim made by a client whose lawyer (in good standing with the bar) died suddenly while holding \$34,856.00 in trust for the client. After the lawyer's death, the firm reported the client's funds were missing. The client filed a CSB claim and also pursued a malpractice claim against the firm. The malpractice insurer paid the client in full plus attorney's fees and costs. After the client confirmed his reimbursement, the CSB dismissed his claim with prejudice.
- Dismissed a client's claim for \$350.00 when the lawyer repaid the client in full after receiving notice of the CSB claim. The lawyer, Paul George Kolesnikovas of Charlton, had received a \$350.00 retainer from the client shortly before his temporary suspension and disbarment in April 2019.

#### **July 16, 2020 Clients' Security Board Decisions:**

- Awarded \$37,000.00 to a client who paid a \$40,000.00 retainer to Robert H. Carp of Gloucester for advice about opening a marijuana business in Massachusetts. The lawyer concealed from the client that he submitted his affidavit of resignation before receiving the first half of the retainer, and that the SJC had accepted the resignation and disbarred him before he received payment of the second half of the retainer. The lawyer formed an LLC and prepared an operating agreement for the business but performed no other services and did not return the unearned portion of the retainer upon his disbarment in July 2019.
- Awarded \$8,000.00 to a client whose lawyer, Gail Balsler of Attleboro, received checks from the client payable to the client's mortgagee, falsely told the client she had used the funds to pay the mortgage and instead added her name as payee and negotiated the checks for her sole benefit. The lawyer provided no accounting and never returned the client's funds. She was suspended for four years in 2016 for misconduct involving other clients.
- Awarded \$5,000.00 to a client whose divorce lawyer, Anthony Gianacopoulos of Pittsfield, having already received a \$3,000.00 fee, demanded the client pay him \$5,000.00 in cash shortly before trial to try the case. The lawyer failed to provide services of value prior to his temporary suspension in June 2018, and his indefinite suspension in November 2018, for his misconduct in six separate matters.

- Awarded \$12,707.50 to a general contractor whose lawyer, Michael P. Murphy of Newton, concealed from the client that he was suspended in November 2017, and collected legal fees for services he performed for eleven months after his suspension.
- Awarded \$1,360.00 to a client whose bankruptcy lawyer, Peter R. Kaplan of Lynn, failed to provide the client with any services of value before he was disbarred in November 2018 for other misconduct.
- Awarded \$1,000.00 to a client whose estate-planning lawyer, William A. Ponds of Hingham, passed away after receiving the fee payment but before performing any legal services for the client. When he died, Mr. Ponds was in good standing with the Massachusetts bar.

#### **June 18, 2020 Clients' Security Board Decisions:**

- Awarded \$40,371.41 to a woman whose lawyer had deposited her inheritance check to his IOLTA account in October 2016 to hold while he prepared her will and handled other legal matters for her. By August 2018, the lawyer, Peter R. Kaplan of Lynn, had intentionally misused the money, and was only able to partially reimburse his client for the funds he had stolen. The lawyer admitted his theft and was disbarred for other conduct in November 2018.
- Awarded \$33,333.33 to a client whose lawyer, John H. Wyman of Plymouth, had settled her personal injury claim and received a settlement check for \$50,000.00 from an insurer in May 2004. The lawyer then falsely told the client that after paying his fee, he was legally bound to hold the balance of the funds for ten years before paying the client any money. The lawyer falsely assured the client that the funds were in an interest-bearing account and stopped taking her calls. In 2015 the lawyer resigned as a disciplinary sanction for stealing more than \$100,000.00 from a charity, and never paid the client any settlement funds.
- Awarded \$25,000.00 each to two clients who had paid those retainers to a lawyer, Robert H. Carp of Gloucester, to advise them about opening marijuana businesses in Massachusetts. He performed no meaningful legal services for the clients and never returned their unearned retainers. He was disbarred in July 2019 for one of these matters as well as for other conduct.

#### **May 21, 2020 Clients' Security Board Decisions:**

- Awarded \$19,500.00 to a couple whose lawyer urged them to settle a real estate suit in March 2016 for that amount. Without telling his clients, the lawyer put the settlement check in his trust account and quickly spent it all. He then lied to his

clients for almost a year claiming he had not received the settlement check. When the clients discovered his lie in May 2017, the lawyer admitted his theft and said he would repay them. The lawyer died on July 2, 2018, still owing his clients \$19,500.00.

- Awarded \$18,500.00 to a client whose lawyer, Paul D. McCarthy of North Andover, advised her to withhold mortgage payments due to a payment dispute, and instead directed the client to make the mortgage payments to him. He promised to hold the funds in escrow while negotiating new mortgage terms with her bank during a time where she was a debtor in an active Chapter 13 bankruptcy matter. The client had fully paid the lawyer's fee approved by the Bankruptcy Court. After the client received a discharge in July 2014, the lawyer told her that he had used the escrowed funds to pay his "extra" legal fees which he never presented to the Bankruptcy Court for review and approval. The lawyer was disbarred in 2016 for other misconduct.
- Awarded \$12,500.00, \$12,500.00, and \$7,500.00, respectively, to three non-Massachusetts clients who had paid those retainers to a lawyer, Robert H. Carp of Gloucester, to advise them about opening marijuana businesses in three states. The lawyer falsely and unlawfully pretended to be licensed also in Michigan and California. He performed no meaningful legal services for these clients and never returned their unearned retainers. He was disbarred for two of these matters as well as for other conduct in July 2019.
- Awarded \$17,500.00 to a client to compensate him for a personal injury settlement his lawyer stole after settling the case in 2015 (with approval from the client's mother) when the client was a minor. The lawyer, Omar S. Gonzalez of Boston, had promised the client's mother he would represent her son for no charge. When the client turned eighteen and asked for the money, the lawyer never paid him. The lawyer was disbarred in 2018 for this and other conduct.
- Dismissed a claim made by a client whose former immigration lawyer had failed to pay him the \$5,000.00 the lawyer received on the client's behalf in August 2013 after the client's immigration bond was cancelled. When the lawyer received notice of the client's CSB claim in August 2018, he began installment payments to the client, completing the full reimbursement in January 2020.

#### **April 16, 2020 Clients' Security Board Decisions:**

- Awarded \$3,500.00, \$1,500.00, and \$1,500.00, respectively, to three clients following the thefts of their unearned retainers by their former lawyers. The lawyers did not perform the services for which they were hired and did not return the unearned fees after they were suspended or disbarred. The stolen funds included an unearned \$3,500.00 retainer paid to Harland L. Smith of East Brookfield who failed to prepare

an alimony modification petition shortly before he was disbarred; an unearned \$1,500.00 retainer paid by another client of Harland L. Smith who was trying to restore his driver's license after the client's OUI conviction; and an unearned flat fee paid by a client to Elana Mikelus Gordon of Bridgewater for preparing and filing a divorce petition that was never filed. Two additional claims for \$7,500.00 and \$2,500.00 were denied after the Board concluded the suspended lawyers had earned the fees.

- Dismissed a 2019 claim for \$47,904.67 when the CSB counsel provided proof that a check from a 2006 real estate closing had in fact been paid to the claimant's son. The claimant originally believed that the funds had been stolen by the claimant's lawyer or the closing attorney but agreed to withdraw the claim after recognizing his son's endorsement on the check.
- Dismissed a 2020 claim for an unearned \$1,715.00 bankruptcy fee when the suspended lawyer immediately returned his former client's fee and file after receiving notice of the CSB claim.

#### **February 20, 2020 Clients' Security Board Decisions:**

- Awarded \$144,454.00 to the estate of an elderly woman who died in 2015 without receiving a personal injury settlement paid to her lawyer in 2012. The lawyer, Christine M. Cedrone of Quincy, repeatedly assured her client that the money was safely held in trust, even though she stole the money shortly after receiving it. After the client's death, the personal representative (PR) for her estate discovered the theft. The PR sued the lawyer and got a judgment that the lawyer failed to pay. The PR also filed a complaint with bar counsel and notified the district attorney, resulting in the lawyer's disbarment, conviction and imprisonment for embezzlement.
- Awarded \$218,201.00 to a client whose lawyer stole the proceeds from the sales of five vacant lots between 2012 and 2016. In 2016, the lawyer, John F. Paczkowski of Dracut, pleaded guilty to federal tax fraud for failing to report as income the money he had stolen from other clients. That conduct also got him disbarred. The client applied to the CSB after getting a default judgment against the lawyer, who failed to pay it.
- Awarded \$2,240.00, \$5,190.00, and \$4,600.00 to three clients following the thefts of their funds by their respective lawyers. The stolen funds included a client's monthly payments totaling \$2,240.00 which were to be used to satisfy a debt, but which his lawyer Michael P. Murphy of Newton kept instead of sending to the client's creditor; an illegal and excessive \$5,190.00 legal fee charged to a client by his lawyer David Zak of Revere for a loan modification; and an unearned \$4,600.00 fee a client paid to

his lawyer Anthony Gianacopoulos of Pittsfield for the defense of an operating under the influence charge.

- Denied a 2018 claim for lack of evidence. The client had sought reimbursement of an unknown amount she believed her lawyer had stolen from her personal injury settlement for a Christmas Day 1975 accident. The client had no records, and the insurer and the lawyer's bank had destroyed records dating back to 1975. The lawyer resigned as a disciplinary sanction in 1994 for other wrongdoing.