

## **Recent CSB Decisions:**

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

- Awarded \$23,608.76 and \$23,234.26, respectively, to a divorced couple to reimburse them for theft of their escrow funds by Josiah Weiss, formerly of North Andover. Mr. Weiss, the wife's lawyer in the 2017 divorce, acted as the couple's escrow agent when he received the sale proceeds from their marital home. Rather than hold the funds in an escrow account until the conclusion of the divorce, Mr. Weiss spent the proceeds for his own business and personal expenses. In August 2020, the court disbarred Mr. Weiss for this conduct.
- Awarded \$1,500.00 to a former client who had paid Josiah Weiss that amount to defend him in a District Court criminal matter. Mr. Weiss failed to appear at two court hearings, concealed his administrative suspension, and lied to the client. Mr. Weiss was disbarred in August 2020 for other misconduct.
- Awarded \$1,400.00 to a former domestic relations client who had paid Mr. Weiss to represent her in an uncontested divorce. Mr. Weiss never filed the divorce; lied to his client that he had; concealed his administrative suspension; and failed to return his client's file and the unearned fee before his August 2020 disbarment.
- Awarded \$750.00 to a couple who had paid a \$3,217.50 flat fee to a lawyer in 2016 to prepare estate planning documents. The lawyer prepared drafts that the clients reviewed and changed, but then died unexpectedly before the drafts were revised and signed. The lawyer had no disciplinary history and left no funds to reimburse the clients.
- Awarded \$2,458.64 to a client who had advanced that amount to Ilya Liviz of Boston on a contingent fee agreement to appeal a verdict in a personal injury case. Mr. Liviz missed the filing deadline and failed to refund the unearned fee. In August 2020, the court indefinitely suspended Mr. Liviz.
- Awarded \$1,180.00 to a veteran who had paid \$1,200.00 to Arizona resident and Massachusetts lawyer, Jennifer Anne Elcock to represent him in several matters in Arizona. Ms. Elcock, already disciplined for unauthorized practice in Arizona, never told the client that she was not licensed to practice in Arizona. After Ms. Elcock abandoned the client at two hearings and he discharged her, she only refunded \$20.00 to him. Ms. Elcock was reciprocally suspended from practice in Massachusetts in September 2020.
- Awarded \$4,207.71 to two former clients who had engaged Gaytri D. Kachroo on a contingent fee basis in 2011 to collect restitution from a court receiver and liquidator related to an international Ponzi investment scheme. Ms. Kachroo wrongfully failed

to pay the clients this amount from funds she had received on their behalf. In October 2018, Ms. Kachroo resigned as a disciplinary sanction for charging excessive contingent fees for similar administrative claims, misusing client retainers, and additional misconduct.

### **November 19, 2020 Clients' Security Board Decisions:**

- Awarded \$154,890.64 to the personal representative of a client's estate to reimburse the estate for its share of proceeds from the April 2017 sale of the client's parents' home. The client's lawyer, Bruce Lavigne of Westford, held \$283,138.98 as escrow agent for the beneficiaries of the parents' estates. After his client died in August 2017, Mr. Lavigne distributed \$128,248.34 to the other beneficiaries and then stole the remaining \$154,890.64 owed to his client. In January 2019, the court disbarred Mr. Lavigne for this misconduct.
- Awarded \$11,000.00, \$2,500.00, and \$2,000.00, respectively, to three domestic relations clients of Josiah Weiss, formerly of North Andover. Mr. Weiss collected retainers from each client; deposited them to his personal account; spent the funds for his benefit; prepared one or more brief pleadings or lied about doing so; lied about fake filings and court proceedings; kept client contact to a minimum and then became unreachable; and never returned or accounted for the unearned fees. In August 2020, the court disbarred Mr. Weiss for this misconduct.
- Awarded \$2,400.00 to a client for a flat fee that he paid the lawyer for a 2017 immigration matter. The lawyer died unexpectedly before performing any legal services. He had no disciplinary history and left no funds to reimburse the client.
- Awarded \$1,500.00 to a client who paid that amount to a lawyer in October 2017 to represent her in an immigration matter. After appearing at a preliminary removal hearing, the lawyer never saw or spoke to the client again. He never told her of her next court date, causing her to be defaulted. The lawyer died unexpectedly in May 2018 before providing any meaningful legal services and with no record of public discipline. The court-appointed commissioner found no funds in the lawyer's accounts.
- Awarded \$2,890.50 to a client who asked his lawyer to defend the client's company in a December 2017 personal injury lawsuit. The lawyer, Michael P. Murphy of Newton, never told the client of his November 2017 suspension that made him ineligible to practice law or to charge or collect any fees. Mr. Murphy issued invoices after his suspension that the client paid. The office of bar counsel notified the client of Mr. Murphy's suspension and referred the client to the CSB. In May 2018, the court indefinitely suspended Mr. Murphy.

- Awarded \$3,200.00 to a client who paid Harland L. Smith, Jr. that amount in 2018 to prepare and file a chapter 7 bankruptcy for her. Mr. Smith never filed anything on the client's behalf and did not respond to the client's inquiries. The client retained new bankruptcy counsel in 2019. Mr. Smith never reimbursed the client's unearned fee. In May 2019, the court disbarred Mr. Smith.

#### **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. In November 2018, the court disbarred Mr. Kaplan for other misconduct.
- 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. In August 2020, the court disbarred Mr. Weiss.
- 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., formerly 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 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 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. In 2019, the court indefinitely suspended Mr. Reilly, and in 2020, the court disbarred him.

- 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. The court suspended Mr. Vasa for four years in May 2017 and disbarred him 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.
- 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 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. Mr. Carp 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. Mr. Carp 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. Ms. Balsler 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. Ms. Balsler provided no accounting and never returned the client's funds. In 2016, the court suspended Ms. Balsler 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. Mr. Gianacopoulos 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 the court disbarred him in November 2018 for other misconduct.
- Awarded \$1,000.00 to a client whose estate-planning lawyer passed away after receiving the fee payment but before performing any legal services for the client. When he died, the lawyer 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. Mr. Kaplan admitted his theft and was disbarred for other misconduct 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. Mr. Wyman 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. Mr. Wyman falsely assured the client that the funds were in an interest-bearing account and stopped taking her calls. Mr. Wyman never paid the client any settlement funds. In 2015, the court accepted Mr. Wyman's resignation as a disciplinary sanction for stealing more than \$100,000.00 from a charity.
- 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. Mr. Carp performed no meaningful legal services for the clients and never returned their unearned retainers. In July 2019, the court disbarred Mr. Carp for one of these matters as well as for other misconduct.

#### **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. At the time of his death, the lawyer had not been disciplined.
- 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. Mr. McCarthy 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 Mr. McCarthy's fee approved by the Bankruptcy Court. After the client received a discharge in July 2014, Mr. McCarthy 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. In 2016, the court disbarred Mr. McCarthy 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. MR. Carp 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. In July 2019, the court disbarred Mr. Carp for two of these matters as well as for other misconduct.
- 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, Mr. Gonzalez never paid him. In 2018, the court disbarred Mr. Gonzalez for this and other misconduct.
- 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, Jr. of East Brookfield who failed to prepare an alimony modification petition shortly before the court disbarred him in 2019; an unearned \$1,500.00 retainer paid by another client of Mr. 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 before the court suspended her in 2018. 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 Ms. Cedrone and got a judgment that she failed to pay. The PR also filed a complaint with bar counsel and notified the district attorney, resulting in the lawyer's conviction and imprisonment for embezzlement. In 2019, the court disbarred Ms. Cedrone.
- 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. The client applied to the CSB after getting a default judgment against the lawyer, who failed to pay it. In 2018, the court disbarred Mr. Paczkowski.

- 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. The court indefinitely suspended Mr. Murphy in 2018; disbarred Mr. Zak in 2016; and indefinitely suspended Mr. Gianacopoulos in 2018.
- 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 misconduct.