

2021 CSB Decisions

January 21, 2021 Clients' Security Board Decisions:

- Awarded \$188,713.13 to claimant as personal representative of his uncle's estate and trustee of a trust established for his uncle's two minor daughters. The claimant hired Donna Sowa of New Bedford to help probate the estate. In 2012, Ms. Sowa received \$212,173.34 from a life insurance policy on the uncle's life which she was to use to fund the trust. Instead, she deposited the funds to her IOLTA account and used most of the funds for her own benefit. In 2017 when the claimant requested \$14,000.00 to repair the beneficiaries' home, Ms. Sowa could only pay him \$7,000.00, leaving \$188,713.13 unaccounted for. The claimant reported Ms. Sowa to bar counsel, and in 2019 Ms. Sowa resigned and was disbarred.
- Awarded \$7,800.00 to a client of Thomas J. Freedman of Dedham, who died in 2019. The client had paid Freedman \$7,800.00 between 2016 and 2018 to represent her in a District Court criminal case. On the day of trial, Freedman suddenly withdrew his appearance and the court appointed successor counsel for the client. Before Freedman passed away, he acknowledged his almost total failure to prepare a defense. When he died, Freedman was in good standing with the bar but left insufficient funds to reimburse the client for the unearned fee.
- Awarded \$1,648.38 each to two claimants who were not paid the funds from a \$5,000.00 escrow held by closing attorney Frank Dimaria of Tyngsboro when the claimants purchased their home in 2013. The escrow, deducted from the sellers' proceeds, was to pay for a missing certificate of compliance post-closing. After the claimants spent \$3,296.75 for the certificate, Dimaria ignored their requests for payment. When Dimaria was disbarred in December 2016, at least \$350,000.00 in client funds were missing from his custody, including the escrow funds.
- Dismissed a 2020 claim, supported only by 2006-07 newspaper articles stating that a lawyer, Anthony Raoul Bott of Harwich, had stolen large sums from many of his clients. The claimant hired Bott in 1990 to recover for injuries the claimant suffered, and sometime later Bott paid the claimant a small settlement check. The claimant had no other documentation or information to support his suspicions that Bott may have stolen from him. Bott resigned as a disciplinary sanction in 2005. The Board's dismissal was without prejudice, after concluding that there was now insufficient evidence of a reimbursable loss.

March 18, 2021 Clients' Security Board Decisions:

- Awarded \$47,405.00 to a disabled claimant whose long-term lawyer, Stephen B. Swaye of New Bedford, was holding mortgage loan funds she obtained to build an addition to her New Bedford home. Swaye was settlement agent for the loan closing;

custodian of the claimant's escrow funds; and the claimant's agent/lawyer with authority to hire, manage, and pay the contractors. On June 20, 2007, Swaye deposited \$101,499.10 of the claimant's funds to his IOLTA. He then falsely claimed he paid \$71,350.00 to the general contractor and \$10,000.00 to an electrician, and forged invoices, receipts, and account records to support those claims. Evidence showed that Swaye paid only \$36,500.00 to the general contractor, zero to the electrician, and \$595.00 for a zoning variance, and stole the remaining \$47,405.00. Swaye was suspended in 2011, and never repaid the stolen funds.

- Awarded \$1,000.00 each to twenty former clients of Richard J. Reilly, Jr., formerly of East Sandwich, who had collected the funds as advance expense retainers for a 2011 class action lawsuit against a timeshare developer in Dennisport (Case 1). In 2012, Reilly settled a lawsuit against the same developer on behalf of clients in second development (Case 2) by agreeing to dismiss Case 1 and never represent any present or future clients in claims related to the first development. Reilly allowed the dismissal of Case 1 in 2013, and never informed his Case 1 clients of the dismissal or returned their unused expense retainers. Reilly's 2019 indefinite suspension was followed by his 2020 disbarment for multiple acts of misconduct.
- Awarded \$5,000.00 to a client who had paid the funds to his lawyer, Jeffrey R. Mazer of Ipswich, between 2009 and 2015 to use as a settlement fund to pay the client's medical bills. Mazer never paid a single medical bill for the client. In 2017, Mazer was disbarred and did not return the client's funds.
- Dismissed a client's claim for a \$350.00 unearned and unreturned fee paid her lawyer, Gaytri D. Kachroo of Cambridge. Kachroo, who had resigned as a disciplinary sanction in October 2018, made full restitution to the client immediately after the client filed the CSB claim.

May 20, 2021 Clients' Security Board Decisions:

- Awarded \$23,500.00 to a client injured in a 2011 automobile accident when he was age 17. The client's lawyer, Omar S. Gonzalez of Boston, recommended that the client accept the insurer's settlement offer of \$23,500.00, but the client declined. In April 2017, Gonzalez settled the claim for \$23,500.00 without informing the client, forged the client's name on the settlement release and check, and stole the proceeds. In early 2018, after fruitless attempts to reach Gonzalez, the client contacted the insurer and learned the case had been settled without his knowledge. The client reported the situation to bar counsel. Gonzalez was disbarred in 2018, and never paid the settlement funds to the client.
- Awarded \$1,000.00 to a former client of Richard J. Reilly, Jr. See March 2021 Summaries for complete details of the underlying facts.

- Dismissed a claim for \$6,000.00, which the claimant believed was an unearned or excessive fee paid to Douglas A. Parigian of Lowell. Parigian was suspended from practice in May 2017. The Board dismissed the claim after concluding there was insufficient evidence to find a reimbursable loss.

June 17, 2021 Clients' Security Board Decisions:

- Disbarred lawyer Frank Dimaria of Tyngsboro stole \$5,000.00 from the seller's proceeds he had escrowed as the closing attorney for a 2013 real estate sale to pay for a missing certificate of compliance. In January 2021, the CSB awarded \$3,296.75 to the buyers for costs they incurred obtaining the missing certificate. See January 2021 Summaries. The CSB then notified the sellers, who did not know about Dimaria's theft of the balance of the escrow that rightfully belonged to them. The sellers promptly filed individual claims and the CSB awarded \$851.62 to each for a total award of \$1,703.24.
- Awarded \$1,000.00 to a former client of Richard J. Reilly, Jr. See March 2021 Summaries for complete details of underlying facts.
- Dismissed without prejudice a \$151,839.73 claim by a trustee on behalf of a beneficiary of a special needs trust. The trustee was seeking real estate proceeds that were received by Harland L. Smith, Jr., of East Brookfield, as counsel to the beneficiary, but never paid to her. Smith was disbarred in 2019 and never paid the beneficiary the funds. Under the circumstances, the trustee was directed to seek authorization from a court-appointed fiduciary to file a claim on behalf of the trust beneficiary.
- Dismissed a \$35,100.00 claim by a client seeking reimbursement for a claimed unearned fee paid to Jeffrey R. Mazer of Ipswich. Mazer, who was disbarred in 2017, had represented the client in a discrimination claim, bringing the case to trial before the Superior Court in 2010. The CSB determined that the claim was essentially a fee dispute and not a reimbursable loss.

July 15, 2021 Clients' Security Board Decisions:

- Awarded \$160,794.65 to the successor personal representative for the estate of a man who died in 2011. In 2012, Deborah Anthony of Andover was appointed administrator of the man's estate. In October 2013, Anthony sold the decedent's home and deposited the net proceeds of \$190,753.50 to her IOLTA account. Anthony spent about \$8,000.00 on estate expenses, but never disbursed any funds to the beneficiaries and instead spent \$182,794.65 on her own business and personal expenses. On May 10, 2016, Anthony was disbarred, and on March 28, 2018, she was indicted on charges of embezzlement and filing a false account to which she later

pleaded guilty. The estate is seeking to recover the remaining funds from a fiduciary bond obtained by Anthony.

- Awarded \$9,750.00, \$6,649.00, \$4,000.00, and \$229.76, respectively, to four former clients of Neil J. DePaul of Cambridge. Each client had paid DePaul an advance retainer for representation in a divorce. In December 2020, DePaul was disbarred and never returned the unearned portions of the retainers the clients had paid him. The CSB found that each client had suffered a reimbursable loss and approved the respective awards.

November 18, 2021 Clients' Security Board Decisions:

- Awarded \$220,848.49 to a former client of Philip Robert Williams of Easthampton to reimburse him for two fake purchases of real estate engineered by Williams. Williams earlier represented the client in buying two residential properties in Amherst. In 2015, Williams falsely informed the client that an adjacent property was available for \$175,500.00. The client paid Williams \$180,500.00 for the supposed purchase price plus a \$5,000.00 legal fee. In 2017, Williams falsely informed the client that another property was for sale and the client paid Williams another \$55,000.00 to buy it. Williams instead used the funds for his own purposes. When the client asked why the deeds were not recorded, Williams blamed the seller's lawyer and sent the client fake documents and emails from a fictitious judge to hide his misconduct. In December 2019, Williams pleaded guilty to multiple federal charges based on his fraudulent conduct and was incarcerated and disbarred. After deducting the client's partial restitution from federal court of \$14,651.51, the CSB awarded the client the balance of the funds he had paid Williams plus the unearned \$5,000.00 legal fee.
- Awarded \$13,333.33 to a client of Stephen J. Mason of Lowell, who passed away in 2009. In 2001, Mason received a \$20,000.00 check from an insurer after settling the client's personal injury claim. Mason kept the entire \$20,000.00 for himself and gave nothing to his client. When Mason died in 2009, the entire settlement was gone. The lawyer was in good standing with the Massachusetts bar at the time of his death.
- Awarded \$10,500.00 to the seller of a two-family home in Lawrence. The settlement agent, Jasmin Polanco of Lawrence, should have used \$10,500.00 from the seller's proceeds in 2015 to discharge a lien held by the U.S. Department of Housing and Urban Development. Instead, Polanco used the funds for her own purposes. In 2018 the U.S. Department of the Treasury began withholding \$189.30 monthly from the seller's Social Security disability payments to pay off the lien. When the seller tried to contact Polanco, he learned she had been disbarred in October 2018 following her conviction on federal bank fraud charges.

- Awarded \$9,400.00 to a former client of Howard M. Lewis, formerly of Dover. In 2018, the client paid Lewis nearly \$13,000.00 to represent him in a divorce. After ten months, Lewis had failed to file the divorce or do any substantive work for the client. After his dismissal, Lewis refused to transfer the client's file or his unearned fee to successor counsel. In December 2018, Lewis was suspended for three years for neglecting divorce matters for multiple clients and failing to return unearned fees, among other misconduct. Although Lewis's fee agreement required the parties to resolve all fee disputes at the MBA Legal Fee Arbitration Board, Lewis refused to arbitrate and defaulted when the client sued him to recover his unearned fee. By November 2021, Lewis had returned only \$225.00 to the client.

December 16, 2021 Clients' Security Board Decisions:

- Awarded \$49,840.19 to the personal representative of an estate represented by Paul George Kolesnikovas of Charlton. When the estate sold the decedent's home in June 2019, Kolesnikovas received the net proceeds and held back \$58,940.19 to pay any claims that might be made against the estate. When the personal representative and his co-beneficiary attempted to contact Kolesnikovas, they learned he had been temporarily suspended in February 2020, and his law office was closed. When Kolesnikovas reimbursed only \$10,000.00 to the estate, the personal representative reported the theft to bar counsel. Kolesnikovas resigned and was disbarred in June 2020 on multiple disciplinary charges. CSB awarded the estate \$48,940.19 plus a \$900.00 unearned fee for a total of \$49,840.19.
- Awarded \$2,500.00 to a former client of Linda A. Wagner of Bourne. In November 2015, the client paid Wagner a \$3,500.00 retainer to defend her in District Court on charges of assault and battery against her husband. Wagner met with the client for less than one hour, filed her appearance and a motion to continue, then appeared in court for approximately two hours when the charges were dismissed. Although Wagner performed no further work on the matter, she paid herself the full retainer and refused to account for the fee and return the unearned portion of the fee. The client complained to bar counsel, and Wagner refused to cooperate with the investigation or the resulting disciplinary proceedings. In December 2020, Wagner was suspended for one year and one day for conduct including intentionally misusing and failing to return the unearned portion of the retainer.
- Awarded \$600.00 each to two clients who had engaged Cynthia Lee Andersen of Westfield for estate planning services. Andersen charged each client \$600.00 to prepare their wills. Andersen offered to safeguard the original signed wills at her office. By January 2019, Andersen had abandoned her law practice without any notice to her clients. She took the clients' wills and failed to respond to their requests to return their files and original wills. In August 2020, Andersen was suspended for one year and one day after failing to cooperate with bar counsel's investigation of multiple matters.

- Awarded \$1,000.00 to a former client of Richard J. Reilly, Jr. See March 2021 Summaries for complete details of the underlying facts.
- Awarded \$300.00 to a former client of Robert Weinstein of Waban who contacted Weinstein for assistance with a prenuptial agreement in August 2021. Weinstein intentionally concealed from the client that on July 16, 2021, a single justice of the Supreme Judicial Court accepted Weinstein's affidavit of resignation as a disciplinary sanction, effective on August 15, 2021. After that date, Weinstein was no longer authorized to practice law. Nevertheless, on August 16, 2021, Weinstein conducted a Zoom call with the client, and met with the client in person on August 31, 2021, for which he wrongfully charged and collected a \$300.00 fee.