

## **ADMONITION NO. 06-17**

### **CLASSIFICATION:**

Failure to Notify of Receipt or to Disburse Promptly [Mass. R. Prof. C. 1.15(c)]

### **SUMMARY:**

The respondent represented a client in a personal injury claim on which Medicare had a statutory lien. The client, who was a pedestrian, was struck and injured by a motor vehicle.

On December 10, 2004, the driver's insurance company issued a settlement check made payable to the respondent, the client, and Medicare. The respondent determined that there was \$5,632.78 in additional no-fault benefits remaining to pay the Medicare lien.

Accordingly, the respondent deposited the client's settlement check into his IOLTA account without Medicare's knowledge, authorization, or endorsement. The respondent then disbursed 2/3 to the client and 1/3 to himself for his attorney's fee.

The respondent's deposit of a settlement check that was payable jointly to a third party (Medicare) without notifying the third party of his receipt of the funds, or obtaining the third party's authorization, was conduct in violation of Mass. R. Prof. C. 1.15(c). In mitigation, Medicare did get paid by the no-fault insurer.

The respondent has been a member of the Bar since 1973, with no prior discipline. He received an admonition.