

ADMONITION NO. 05-21

CLASSIFICATION:

IOLTA Violation [Mass. R. Prof. C. 1.15(e)(5)]

SUMMARY:

The respondent represented a credit union in a foreclosure action. The foreclosure resulted in a surplus of \$417,000. On February 13, 2004, the respondent received a check for \$417,000 from the attorney representing the buyer of the subject property. The respondent understood that before he could distribute the proceeds of the check, he had to file an interpleader action naming several parties as defendants, and obtain a resolution of that action. The respondent knew or should have known that this would take at least several months and that these funds should have been deposited to an individual interest-bearing account. The respondent deposited the \$417,000 into his firm's IOLTA account. The respondent held the funds in his IOLTA account from February 13, 2004 through September 2004, a period of more than six months.

By holding trust funds that were not nominal in amount for longer than a short period of time, the respondent violated Mass. R. Prof. C. 1.15(e)(5). As a result of the court's intervention, the respondent made restitution of the interest that the funds would have earned in an interest-bearing account. The respondent received an admonition for his conduct.