

ADMONITION NO. 21-09

CLASSIFICATIONS:

Failure to Notify of Receipt or to Disburse Promptly [Mass. R. Prof. C. 1.15(c)]
Creating Negative Balance In Client Ledger [Mass. R. Prof. C. 1.15(f)(1)(C)]

SUMMARY:

Respondent is a sole practitioner with a high-volume real estate practice. In 2019, the respondent had opened a new IOLTA account and was planning on winding down his old IOLTA account. Respondent deposited closing funds into the old IOLTA account and mistakenly wrote a disbursement check from the new IOLTA account. When the check was presented to the new IOLTA account bank, the check was dishonored for insufficient funds in violation of Mass. R. Prof. C. 1.15(f)(1)(C). When the respondent realized his error, he immediately transferred funds from the old IOLTA account to the new IOLTA account to fund the disbursement check.

The respondent had maintained an IOLTA balance of not less than \$20,000 for at least five (5) years. That balance represented dozens of uncleared transactions, some of which were five or six years old. Many of the uncleared transactions involved sums under \$100 and were holdbacks or charges for items such as water and sewer charges, taxes and other costs that had been paid at closing. The uncleared transaction sums were reflected on the client ledgers, but could have belonged to the payee, the client, the opposing party or the lender. At bar counsel's instruction, the respondent undertook to research and remit the funds to the proper parties as soon as possible. By failing to promptly deliver to clients and third parties funds that they were entitled to receive, the respondent violated Mass. R. Prof. C. 1.15(c).

The respondent was admitted to the bar in 1996. He has no previous discipline. The respondent received an admonition for this misconduct.