

ADMONITION NO. 20-03

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 lawsuit against her employer. The representation was successful, resulting in a monetary judgment against the employer. The employer thereafter provided the respondent with two checks made payable to the client in satisfaction of the judgment. At the client's request, the respondent initially maintained custody of checks. The client wanted more information about the calculations behind the checks before accepting them.

Over the next several months, the respondent tried in good faith to comply with the client's requests for information; however, there ultimately was a breakdown in the attorney client relationship causing the respondent to believe that the client would renege on her obligation to pay him his legal fees from the representation. Rather than transfer the checks to his client and ask her to pay his legal fees, the respondent instead insisted that the client sign over one of the checks to him so that he could deduct his fees and return the remaining funds to her. When the client refused to comply and terminated the representation, the respondent filed a lawsuit against the client for his unpaid fees. After bar counsel intervened, the respondent withdrew his lawsuit and reached a compromise with the client.

By failing to promptly deliver to his client the checks made payable to his client after there was a breakdown in the attorney client relationship, the respondent violated Mass. R. Prof. C. 1.15(c). In mitigation, during the relevant time period, the respondent was dealing with a very significant health problem that required surgery and distracted him from his law practice and caused stress that interfered with his judgment in the matter. In addition, the client suffered no ultimate harm in the matter.

The respondent was admitted in December of 1990. He previously received an admonition for failing to use a written fee agreement and for failing to promptly return a client's file.