

## MISUSE OF CLIENT FUNDS

### A. MITIGATING CIRCUMSTANCES THAT REDUCE DISCIPLINE

*In re: Allen A. Lefkovitz*, M.R. 28257 (November 21, 2016), *affirming* 2014 PR 00039 (August 24, 2015)

Attorney found guilty of spending approximately \$125,000 of client funds for personal use suspended for one year, with the suspension stayed after five (5) months by an eighteen (18) month period of probation, due to mitigating circumstances. Although attorney engaged in extensive pattern of using client funds totaling approximately \$125,000 over an 18-month period, the misuse resulted from inadequate bookkeeping procedures and not intentional, dishonest motives. Further, the attorney made immediate restitution to his clients and none of his clients were harmed.

Attorney, licensed to practice law since 1980, consistently deposited client funds into a client trust account, but during 2011 and 2012 he failed to utilize appropriate client trust account reconciliation procedures.

The Review Board found attorney's unauthorized use of client funds to be "extremely serious misconduct that cannot be countenanced." The Review Board considered as aggravating factors the following: (i) the attorney's failure to safeguard and segregate funds in his client trust account spanned over a year and a half, and (ii) the attorney's failure to immediately take steps to address the problems with his bookkeeping practices in 2011, when he was first notified by both the ARDC and his bank of an overdraft in his client trust account.

The Review Board also found "considerable and compelling" mitigating evidence including: (i) attorney's acknowledgment of wrongdoing and sincere remorse, (ii) significant and necessary changes in bookkeeping procedures since 2013 coupled with the attorney's review of the Illinois Rules of Professional Conduct and completion of an ARDC client trust account webinar, (iii) restitution payments to clients (iv) attorney sent timely checks to client for funds they were entitled and his clients were able to cash those checks or replacement checks without difficulty; (v) clients did not complain to the ARDC, did not testify against attorney during the ARDC proceedings, and several clients continued to retain attorney's services; (vi) attorney is regarded as an asset to both the legal and Jewish communities through significant amounts of time performing pro bono services and volunteer work for underprivileged individuals and not-for-profit organizations.