

**State of Michigan**  
**Attorney Discipline Board**

FILED  
ATTORNEY DISCIPLINE BOARD  
17 APR 20 PM 3:31

**Grievance Administrator,  
Michigan Attorney Grievance Commission,**

Petitioner,

Case No. 17-41-GA

v

**Doris Marie Day-Winters, P56828,**

Respondent.

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**Formal Complaint**

**Count One  
(Parties and Jurisdiction)**

1. Petitioner, Grievance Administrator, is authorized by MCR 9.109(B)(6) to prosecute this Formal Complaint by the Attorney Grievance Commission, which is the prosecution arm of the Supreme Court for the discharge of its constitutional responsibility to supervise and discipline Michigan attorneys.

2. As a licensed Michigan attorney, Respondent is subject to the jurisdiction of the Supreme Court and the Attorney Discipline Board as set forth in MCR 9.104.

3. Michigan attorneys have a duty to conduct themselves personally and professionally at all times in conformity with the standards imposed on members of the bar as a condition of the privilege to practice law.

4. Respondent is a Michigan attorney who was licensed in 2004, and who resides or has a place of business in the Village of Lake Isabella, County of Isabella, State of Michigan.

**(Factual Allegations)**

5. At all times relevant to the formal complaint, Respondent maintained an IOLTA with Independent Bank, account number XXXX882 (hereinafter referred to as the "IOLTA").

6. During the period of 2013 through May 2015, Respondent regularly deposited "non-refundable," earned attorney fees in her IOLTA, which included direct deposits from the per capita funds received by members of the Chippewa Indian Tribe, which constituted the deposit therein of personal and/or business funds.

**(Grounds for Discipline)**

7. By reason of the conduct described above in this Formal Complaint, Respondent has committed the following misconduct and is subject to discipline under MCR 9.104 as follows:

- a. Held funds other than client or third party funds in an IOLTA, in violation of MRPC 1.15(a)(3) and 1.15(d);
- b. Deposited Respondent's own funds in an IOLTA in an amount more than reasonably necessary to pay financial institution charges or fees, in violation of MRPC 1.15(f);

- c. Maintained funds in an IOLTA which were not being held in trust, in violation of MRPC 1.15(A).
- d. Engaged in conduct that exposed the legal profession to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and,
- e. Engaged in conduct that is contrary to ethics and violated the standards or rules of professional conduct adopted by the Supreme Court, in violation of MCR 9.104(3)(4); and MRPC 8.4(a).

#### **Count Two**

8. On or about December 9, 2013, the balance in Respondent's IOLTA was \$1,132.03.

9. On or about December 10, 2013, Respondent wrote a check in the amount of \$2,500 on her personal checking account, held jointly with her son, William Day; said account being in the name of "Doris M. Day-Winters," at Members First Credit Union, account no. XXXX0300.

10. On or about December 10, 2013, Respondent deposited the above referenced \$2,500 check, identified by sequence number 0519, in her IOLTA, resulting in a new balance in the IOLTA of \$3,632.03.

11. The above referenced \$2,500 personal check did not represent client or third person funds in connection with a representation or escrow, but rather was Respondent's personal funds, which she deposited in her IOLTA.

12. On or about December 11, 2013, Respondent withdrew \$2,000 from the IOLTA by a check on said account, sequence number 20425, made payable to "cash," resulting in a new balance of \$1,632.03.

13. On or about December 13, 2013, the previously deposited \$2,500 personal check referenced above was dishonored by Respondent's credit union for not sufficient funds, and the amount of \$2,500 was debited from Respondent's IOLTA, resulting in a negative balance in the IOLTA of (\$-877.97).

14. On or about December 13, 2013, Independent Bank notified Respondent that \$2,500 was debited from her IOLTA because the check which had been deposited was returned, resulting in the IOLTA being overdrawn in the amount of (\$-877.97).

15. On December 16, 2013, Respondent received \$10,531 cash from a settlement with the Saginaw Chippewa Tribal Police Department in a forfeiture action, on behalf of a client, Rodney M\_\_\_\_\_ (hereinafter referred to as "Mr. M").

16. On December 16, 2013, Respondent deposited cash in the amount of \$8,281.00 in her IOLTA.

17. At least \$5,531.00 of the December 16, 2013 deposit of \$8,281 were Mr. M's client funds, and on information and belief, the remaining \$2,750 were Respondent's personal funds.

18 Mr. M's funds in the amount of \$5,531 remained in the IOLTA until December 23, 2013, on which date Respondent withdrew \$5,531 pursuant to a check made payable to "cash."

19. On December 23, 2013, Respondent disbursed funds to Mr. M's pursuant to a cashier's check in the amount of \$10,531.

20. That the remaining balance of \$1,872.03 in the IOLTA as of December 23, 2013.

**(Grounds for Discipline)**

21. By reason of the conduct described above in this Formal Complaint, Respondent has committed the following misconduct and is subject to discipline under MCR 9.104 as follows:

- a. Held funds other than client or third party funds in an IOLTA, in violation of MRPC 1.15(a)(3) and 1.15(d);
- b. Failed to hold property of clients or third persons in connection with a representation separate from Respondent's own property, thus commingling her personal funds with client or third person funds, in violation of MRPC 1.15(d);
- c. Deposited Respondent's own funds in an IOLTA in an amount more than reasonably necessary to pay

financial institution charges or fees, in violation of MRPC 1.15(f);

- d. Maintained funds in an IOLTA which were not being held in trust, in violation of MRPC 1.15(A).
- e. Engaged in conduct that exposed the legal profession to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and,
- f. Engaged in conduct that is contrary to ethics and violated the standards or rules of professional conduct adopted by the Supreme Court, in violation of MCR 9.104(3)(4); and MRPC 8.4(a).

**Count Three  
(Factual Allegations)**

22. Petitioner repeats by reference all the previous allegations in this Complaint as if stated fully herein.

23. On March 30, 2015, the balance in Respondent's IOLTA was \$573.46.

24. On March 30, 2015, Respondent wrote a check from her IOLTA to "Winn Telecom," her telephone/internet service provider, in the amount of \$600, and she also wrote a check to the State Bar of Michigan for its fee for conducting a Practice Management Consultation of her law practice, in the amount of \$500.

25. On March 31, 2015, Independent Bank credited Respondent's IOLTA with interest in the amount of \$0.02, resulting in a new balance of \$573.48.

26. On March 31, 2015, Independent Bank processed Respondent's "Winn Telecom" check, referenced above, leaving a negative balance in the IOLTA of (\$-26.52.)

27. On April 1, 2015, Independent Bank charged Respondent an overdraft fee of \$34.00, resulting in a new negative balance on that date of (\$-60.52).

28. On April 3, 2015, Respondent received in her IOLTA direct deposits of earned personal funds totaling \$2,075.00 and she made withdrawals totaling \$1,180.00; in addition to which Independent Bank processed the check made payable to the State Bar of Michigan in the amount of \$500 referenced above, and the bank also made an automatic withdrawal of the IOLTA interest in the amount of (\$0.02), resulting in a negative balance in Respondent's IOLTA of (\$-285.54).

29. Respondent no longer has an IOLTA account at this time.

**(Grounds for Discipline)**


30. By reason of the conduct described in this Complaint, Respondent has violated MCR 9.104 and committed the following misconduct:

- a. Held funds other than client or third party funds in an IOLTA, in violation of MRPC 1.15(a)(3); and 1.15(d);
- b. Deposited her own funds in an IOLTA in an amount more than reasonably necessary to pay financial institution charges or fees, in violation of MRPC 1.15(f);

- c. Misused her IOLTA to directly pay her personal, and/or business expenses, in violation of MRPC 1.15(a)(3); 1.15(d); and 1.15(f);
- d. Maintained funds in an IOLTA which were not being held in trust, in violation of MRPC 1.15A;
- e. Engaged in conduct that exposed the legal profession to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and,
- f. Engaged in conduct contrary to ethics and violated the Standards or Rules of Professional Conduct adopted by the Supreme Court, in violation of MCR 9.104(3) and (4); and MRPC 8.4(a).

Wherefore, Respondent should be subjected to such discipline as may be warranted by the facts or circumstances of such misconduct, including any restitution owed.

Dated: April 20, 2017

  
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Alan M. Gershel, P29652  
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