

*State of New York
Supreme Court, Appellate Division
Third Judicial Department*

Decided and Entered: November 27, 2024

PM-234-24

In the Matter of WOOSEOK CHANG,
an Attorney.

MEMORANDUM AND ORDER
ON MOTION

(Attorney Registration No.4424917)

Calendar Date: October 28, 2024

Before: Egan Jr., J.P., Pritzker, Reynolds Fitzgerald, Ceresia and McShan, JJ.

Monica A. Duffy, Attorney Grievance Committee for the Third Judicial Department, Albany (Nikolas S. Tamburello of counsel), for Attorney Grievance Committee for the Third Judicial Department.

Wooseok Chang, Burlington, Massachusetts, respondent pro se.

Per Curiam.

Respondent was admitted to practice by this Court and in Massachusetts in 2006. In March 2022, respondent was publicly reprimanded by the Commonwealth of Massachusetts Board of Bar Overseers of the Supreme Judicial Court upon his stipulation that he had violated several rules of that jurisdiction's Rules of Professional Conduct. More specifically, respondent admitted to certain violations concerning attorney escrow record-keeping requirements (*see* Massachusetts Rules of Prof Conduct rule 1.15 [f] [1] [B], [C], [E]), communication of the scope of the representation and the basis or rate of the fee (*see* Massachusetts Rules of Prof Conduct rule 1.5 [b] [1]), and communications regarding a lawyer's services (*see* Massachusetts Rules of Prof Conduct rules 7.1, 7.5 [d]). The Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC) now moves, by motion marked returnable October 28, 2024, to impose discipline

upon respondent in this state due to his established misconduct in Massachusetts. Respondent opposes AGC's motion and AGC has been heard in reply.

"We may discipline an attorney for misconduct committed in a foreign jurisdiction and, in defense, the attorney may assert that the procedure in the foreign jurisdiction lacked due process, that there was an infirmity of proof establishing the misconduct or that the misconduct for which the attorney was disciplined in the foreign jurisdiction does not constitute misconduct in New York" (*Matter of Goldstein*, ___ AD3d ___, ___, 218 NYS3d 858, ___, 2024 NY Slip Op 05269 [3d Dept 2024]; *see* Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.13). While respondent's opposition does not specifically reference any of the aforementioned defenses, we construe his opposition as arguing that there was an infirmity of proof establishing the misconduct and that at least some of the misconduct for which respondent was disciplined does not constitute misconduct in New York. To that end, respondent attempts to characterize his violations of Massachusetts Rules of Professional Conduct rule 1.15 (f) (1) (E) – which requires an attorney to prepare and retain a reconciliation report for trust accounts at least every 60 days, wherein the attorney compares the balance of his or check register, adjusted bank statement and client matter balances – as merely technical, inasmuch as he argues that his own records, which he purports to have shown to the Board, demonstrate that he maintained proper accounting and reconciliation, but nonetheless did not satisfy all of Massachusetts's specific requirements. However, we note that respondent stipulated to all of the allegations and rule violations set forth in the Board's petition, further waiving his right to any evidentiary hearing on same. As such, we conclude that each of the rule violations and facts were established by respondent's stipulation; thus, he may not now seek to challenge the rule violations and facts that he stipulated to in the Massachusetts disciplinary proceeding (*see e.g. Matter of Renna*, 225 AD3d 1055, 1056 [3d Dept 2024]; *Matter of Sablone*, 211 AD3d 1226, 1227 [3d Dept 2022]).

Moreover, while AGC correctly acknowledges that New York does not have a precise analogue to Massachusetts Rules of Professional Conduct rule 1.15 (f) (1) (E), it nonetheless contends that Rules of Professional Conduct (22 NYCRR 1200.0) rule 1.15 (d) (2) was violated by respondent's conduct in Massachusetts. Respondent's stipulation in the Massachusetts disciplinary proceeding reveals that, between December 2017 and November 2020, he failed to reconcile any of his attorney escrow accounts through the three-way reconciliation process. The Massachusetts rule is specific, inasmuch as it requires an attorney to generate a reconciliation report every 60 days of the attorney's escrow account, wherein the attorney compares his or her check register, adjusted bank statement and individual client records to verify that the sums are identical. Conversely,

Rules of Professional Conduct (22 NYCRR 1200.0) rule 1.15 (d) (2) more generally requires lawyers to make accurate entries of all financial transactions in their records of receipts and disbursements, in their special accounts, in their ledger books or similar records and in any other books of account kept by the lawyers in the regular course of their practice, and that such entries shall be made at or near the time of the act, condition or event required. The facts stipulated to in the Massachusetts disciplinary proceeding indicate that respondent compared the bank balance to the check register, but did not compare the two records to his client matter balances; thus, it appears that respondent maintained *some* of the appropriate records. In this vein, Massachusetts Rules of Professional Conduct rule 1.15 (f) (1) (E) specifically references a "reconciliation report," which the attorney is required to not only generate, but also maintain. As such, respondent's failure to compare the records to his client matter balances and to generate such a reconciliation report, constitutes, in our view, a violation of Rules of Professional Conduct (22 NYCRR 1200.0) rule 1.15 (d) (2), as respondent was not making accurate entries of all financial transactions. Accordingly, we grant AGC's motion and deem the misconduct established (*see Matter of Anderson*, 206 AD3d 1431, 1433 [3d Dept 2022]).¹

"We are not obligated to impose the same disciplinary sanction as was issued by the other jurisdiction, but rather we are tasked with imposing a sanction that protects the public, maintains the honor and integrity of the profession, and deters others from committing similar misconduct" (*Matter of Lorenzo*, ___ AD3d ___, ___, 219 NYS3d 468, ___, 2024 NY Slip Op 04859 [3d Dept 2024]; *see* Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.8 [b]). AGC cites in aggravation of respondent's conduct his failure to notify this Court or it of the Massachusetts discipline, and we further note that respondent has not submitted any factors in mitigation. While the record before us does not indicate that respondent's actions caused any harm to clients, "[f]ew, if any, of an attorney's professional obligations are as crystal clear as the duty to safeguard client funds," including through proper record keeping of accounts holding such funds (*Matter of Galasso*, 19 NY3d 688, 694 [2012]; *see* ABA Standards for Imposing Lawyer Sanctions standard 4.13). Given the totality of the circumstances, we censure respondent (*see Matter of Feldstein*, 86 AD3d 910, 910 [3d Dept 2011]; *Matter of Patel*, 43 AD3d 549, 549-550 [3d Dept 2007]; *Matter of Shephard*, 92 AD2d 978, 979 [3d Dept 1983]).

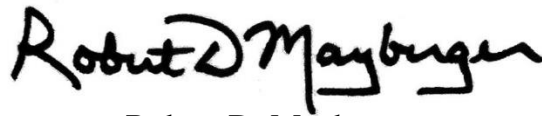
¹ As to the other rule violations, we conclude that the remainder of respondent's misconduct in Massachusetts also constitutes professional misconduct in New York, inasmuch as the sustained rule violations are substantially similar to Rules of Professional Conduct (22 NYCRR 1200.0) rules 1.5 (b) (1); 1.15 (d) (1) (i), (ii); 7.1, 7.5 (c).

Egan Jr., J.P., Pritzker, Reynolds Fitzgerald, Ceresia and McShan, JJ., concur.

ORDERED that the motion of the Attorney Grievance Committee for the Third Judicial Department is granted; and it is further

ORDERED that respondent is censured.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large initial "R".

Robert D. Mayberger
Clerk of the Court