

SUPREME COURT OF LOUISIANA

In re Weber

177 So. 3d 106 (La. 2015) · Decided August 28, 2015

SUMMARY

The Louisiana Supreme Court disbarred Michael C. Weber for neglecting a client matter, failing to communicate, converting client funds, failing to cooperate with disciplinary authorities, and violating multiple Rules of Professional Conduct. The court also ordered full restitution with interest to the former client and assessed the costs of the proceedings against Weber.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	August 28, 2015
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-disciplinary proceeding in which the Office of Disciplinary Counsel filed formal charges, the respondent failed to answer, and the hearing committee and disciplinary board recommended disbarment and restitution.
STANDARD OF REVIEW	Because attorney-disciplinary matters fall within the court's original jurisdiction, the Supreme Court independently reviews the record and acts as trier of fact, determining whether misconduct was proven by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential attorney-discipline decision.

TOPICS

insurance restitution remedies damages

PRACTICE AREAS

legal ethics and professional responsibility attorney discipline client funds and trust accounts
insurance claim representation

QUESTIONS PRESENTED

1. Whether the respondent's failure to answer the formal charges caused the factual allegations to be deemed admitted under Supreme Court Rule XIX, § 11(E)(3).
2. Whether the deemed-admitted facts established violations of the Louisiana Rules of Professional Conduct, including neglect, failure to communicate, mishandling and conversion of client funds, and failure to cooperate with the Office of Disciplinary Counsel.
3. What sanction was appropriate for the respondent's misconduct involving conversion of client funds, client neglect, failure to communicate, and failure to cooperate with disciplinary authorities.

HOLDINGS

1. When a lawyer does not answer formal disciplinary charges, the factual allegations are deemed admitted and proven by clear and convincing evidence under Supreme Court Rule XIX, § 11(E)(3).
2. The respondent violated the charged Rules of Professional Conduct by neglecting a legal matter, failing to communicate with his client, converting and failing to remit client funds, and failing to cooperate with the Office of Disciplinary Counsel.
3. Disbarment was warranted for the knowing and intentional conversion of client funds, together with the extensive deprivation, significant harm and inconvenience to the client, failure to make restitution, and aggravating circumstances.

KEY QUOTATIONS

“However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations.” (109)

“Specifically relevant to the instant matter is our determination that disbarment is warranted when one or more of the following elements are present: the lawyer acts in bad faith and intends a result inconsistent with his client’s interest; the lawyer commits forgery or other fraudulent acts in connection with the violation; the magnitude or the duration of the deprivation is extensive; the magnitude of the damage or risk of damage, expense and inconvenience caused the client is great; the lawyer either fails to make full restitution or does so tardily after extended pressure of disciplinary or legal proceedings.” (110)

FACTUAL BACKGROUND

Michael C. Weber represented Mark George Delouise in an insurance claim involving damage to Delouise's home. Weber received a \$3,448.78 insurance-company check payable to Weber and Delouise, represented that he would hold the funds in his trust account, and instead deposited them into a non-IOLTA account and converted them to his own use. Weber failed to communicate with Delouise, failed to return the funds, abandoned the matter, and failed to cooperate with the disciplinary investigation; Delouise never received the funds and had to hire another attorney.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed one count of formal charges against Michael C. Weber. After Weber failed to answer, the factual allegations were deemed admitted under Supreme Court Rule XIX, § 11(E)(3). The hearing committee recommended disbarment, and the disciplinary board likewise recommended disbarment,

restitution, and assessment of costs. The Supreme Court of Louisiana independently reviewed the record and adopted the recommendation.

DISPOSITION

other

CASES CITED

- In re: Banks, 09-1212 (La. 10/2/09), 18 So. 3d 57
- In re: Donnan, 01-3058 (La. 1/10/03), 838 So. 2d 715
- Louisiana State Bar Ass'n v. Reis, 513 So. 2d 1173 (La. 1987)
- Louisiana State Bar Ass'n v. Whittington, 459 So. 2d 520 (La. 1984)
- Louisiana State Bar Ass'n v. Hinrichs, 486 So. 2d 116 (La. 1986)
- In re: Hatfield, 08-2632 (La. 2/20/09), 2 So. 3d 425
- In re: Poirrier, 01-1116, 01-1118 (La. 6/29/01), 791 So. 2d 94