

SUPREME COURT OF IOWA

Iowa Supreme Court Attorney Disciplinary Board v. Patrick Alex
Henrichsen

825 N.W.2d 525 (Iowa 2013) · No. No. 12-1567 · Decided January 18, 2013

SUMMARY

The Iowa Supreme Court reviewed an attorney disciplinary proceeding involving Patrick Alex Henrichsen’s deposit of earned fees into his personal account rather than his law firm’s account, in violation of Iowa Rule of Professional Conduct 32:8.4(c). Although the Grievance Commission recommended a public reprimand, the court imposed an indefinite suspension with no possibility of reinstatement for three months. The court considered the repeated misconduct, mitigating factors, and comparable disciplinary sanctions.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Appel, J.; Wiggins, J.; all other participating justices
JURISDICTION	Iowa
DECIDED	January 18, 2013
DOCKET	No. 12-1567
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding reviewed by the Supreme Court of Iowa from a report of the Grievance Commission recommending a public reprimand.
STANDARD OF REVIEW	De novo review. The Board must prove ethical misconduct by a convincing preponderance of the evidence. The court considers but is not bound by the commission's findings, conclusions, or recommended sanction.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential authority.
PARTIES	Iowa Supreme Court Attorney Disciplinary Board v. Patrick Alex Henrichsen

TOPICS

- appellate procedure
- standard of review
- corporate law

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

QUESTIONS PRESENTED

1. Whether Henrichsen violated Iowa Rule of Professional Conduct 32:8.4(c) by withholding firm receivables and depositing them into his personal account.
2. What disciplinary sanction was appropriate given the repeated withholding of firm funds, the absence of client harm, self-reporting, cooperation, personal issues, and lack of prior discipline.
3. Whether the Supreme Court of Iowa was bound by the Grievance Commission's recommended sanction.

HOLDINGS

1. A lawyer violates Iowa Rule of Professional Conduct 32:8.4(c) by withholding receivables belonging to the lawyer's firm and depositing them into a personal bank account contrary to the firm's shareholder agreement.
2. The court is not bound by the Grievance Commission's recommended sanction and may impose a lesser or greater sanction after independently reviewing the record.
3. An indefinite suspension from the practice of law, with no possibility of reinstatement for three months, was warranted.

KEY QUOTATIONS

“Upon our de novo review, we suspend Henrichsen’s license to practice law indefinitely with no possibility of reinstatement for a period of three months.” (525)

“Based on our examination of the record, we conclude Henrichsen withheld receivables from the partnership and deposited them into his personal bank account in violation of the shareholder agreement. Thus, he violated rule 32:8.4(c).” (528)

“In light of the seriousness of Henrichsen’s misconduct, we suspend Henrichsen’s license to practice law in this state for a period of three months.” (530)

FACTUAL BACKGROUND

Henrichsen became a shareholder in a West Des Moines professional corporation in 2008. Under the shareholders' agreement, all earned fees were to be deposited into the firm's general account and later distributed under the firm's compensation formula. Between April 2008 and September 2010, Henrichsen deposited at least \$10,000 in firm receivables into his personal account. The conduct did not affect client trust accounts, cause duplicate billing, or result in client losses; Henrichsen self-reported the conduct, settled the firm's financial claims, and had no prior disciplinary history.

PROCEDURAL HISTORY

The Iowa Supreme Court Attorney Disciplinary Board charged Henrichsen with violating Iowa Rule of Professional Conduct 32:8.4(c) by depositing firm receivables into his personal account. The Grievance

Commission recommended a public reprimand. On mandatory review, the Supreme Court of Iowa conducted a de novo review, found an ethical violation, and imposed an indefinite suspension with no possibility of reinstatement for three months.

DISPOSITION

other

CASES CITED

- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Johnson, 792 N.W.2d 674, 677 (Iowa 2010)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Templeton, 784 N.W.2d 761, 763 (Iowa 2010)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Axt, 791 N.W.2d 98, 101 (Iowa 2010)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Lett, 674 N.W.2d 139, 142 (Iowa 2004)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Isaacson, 750 N.W.2d 104, 108-10 (Iowa 2008)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Irwin, 679 N.W.2d 641, 642-45 (Iowa 2004)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Huisinga, 642 N.W.2d 283, 285-88 (Iowa 2002)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Schatz, 595 N.W.2d 794, 795-96 (Iowa 1999)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Carr, 588 N.W.2d 127, 129-30 (Iowa 1999)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Sylvester, 548 N.W.2d 144, 145, 147 (Iowa 1996)
- Comm. on Prof'l Ethics & Conduct v. Piazza, 405 N.W.2d 820, 822-24 (Iowa 1987)
- Comm. on Prof'l Ethics & Conduct v. Hanson, 244 N.W.2d 822, 823-24 (Iowa 1976)
- Comm. on Prof'l Ethics & Conduct v. McClintock, 442 N.W.2d 607, 608 (Iowa 1989)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Morrison, 727 N.W.2d 115, 119 (Iowa 2006)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Clauss, 711 N.W.2d 1, 4 (Iowa 2006)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Ireland, 748 N.W.2d 498, 502 (Iowa 2008)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Thompson, 732 N.W.2d 865, 868-69 (Iowa 2007)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Kress, 747 N.W.2d 530, 541 (Iowa 2008)
- Iowa Supreme Ct. Att'y Disciplinary Bd. v. Van Ginkel, 809 N.W.2d 96, 110 (Iowa 2012)
- Iowa Supreme Court Attorney Disciplinary Board v. Bieber, 824 N.W.2d 514, 530 (Iowa 2012) (Wiggins, J., dissenting)

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