

SUPREME COURT OF OHIO

Office of Disciplinary Counsel v. Hartsock

94 Ohio St. 3d 18 (2001) · Decided December 19, 2001

SUMMARY

The Supreme Court of Ohio indefinitely suspended Walter D. Hartsock from the practice of law for providing insider settlement information to attorneys in exchange for kickbacks while employed as an insurance claims adjuster. The court adopted findings that his conduct violated multiple provisions of the Code of Professional Responsibility, including provisions concerning illegal conduct, dishonesty, prejudice to the administration of justice, and fitness to practice law.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Douglas, J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.
JURISDICTION	Ohio
DECIDED	December 19, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding based on stipulated facts, exhibits, a federal conviction, and the recommendation of the Board of Commissioners on Grievances and Discipline.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Office of Disciplinary Counsel v. Walter D. Hartsock

TOPICS

insurance

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

insurance claims handling

QUESTIONS PRESENTED

- Whether Hartsock's participation in kickback schemes involving insider insurance-claim settlement information violated the Code of Professional Responsibility.

2. What disciplinary sanction was appropriate for Hartsock's misconduct.

HOLDINGS

1. Hartsock's participation in kickback arrangements involving insider settlement information violated DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(5), and DR 1-102(A)(6).
2. Hartsock was indefinitely suspended from the practice of law in Ohio, with costs taxed to him.

KEY QUOTATIONS

“Respondent is hereby indefinitely suspended from the practice of law in Ohio.” (20)

FACTUAL BACKGROUND

From 1990 through 1999, Walter D. Hartsock, while working as a claims adjuster for Nationwide Insurance Company, provided insider settlement information to attorneys representing plaintiffs with claims against Nationwide in exchange for kickbacks. In one matter, information enabled a favorable settlement and resulted in a \$15,000 kickback that was shared with Hartsock and others. In another matter, Hartsock provided information in exchange for a \$2,500 kickback. Use of the United States mail in the schemes led to Hartsock's federal conviction for mail-fraud conspiracy.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed a complaint alleging that Hartsock violated the Code of Professional Responsibility by providing insider settlement information to attorneys representing claimants against Nationwide Insurance Company in exchange for kickbacks. Hartsock answered, and the matter was submitted to a panel of the Board of Commissioners on Grievances and Discipline on stipulations and exhibits. The panel found multiple disciplinary violations and recommended an indefinite suspension; the board adopted that recommendation, and the Supreme Court of Ohio adopted the board's findings, conclusions, and recommendation.

DISPOSITION

other

CASES CITED

- In re Hartsock, 89 Ohio St. 3d 1418, 729 N.E.2d 388 (2000)
- Disciplinary Counsel v. Dubyak, 92 Ohio St. 3d 18, 748 N.E.2d 26 (2001)
- Disciplinary Counsel v. Gambrel, 94 Ohio St. 3d 10, 759 N.E.2d 771 (2001)
- In re Resignation of Seidita, 90 Ohio St. 3d 1209, 735 N.E.2d 894 (2000)

OPINION

PER CURIAM.

Per Curiam. From 1990 through 1999 respondent, Walter D. Hartsock, of Poland, Ohio, Attorney Registration No. 0031434, then a claims adjuster for Nationwide Insurance Company, provided insider settlement information to certain attorneys who represented plaintiffs with claims against Nationwide in exchange for kickbacks from the attorneys.

On May 31, 2000, after respondent was convicted in the United States District Court for mail fraud conspiracy in furtherance of these schemes, we suspended him from the practice of law for an interim period. In re Hartsock (2000), 89 Ohio St.3d 1418, 729 N.E.2d 388. *19 On October 9, 2000, relator, Office of Disciplinary Counsel, filed a complaint charging that respondent's conduct in these kickback arrangements violated the Code of Professional Responsibility.

Respondent answered, and the matter was submitted to a panel of the Board of Commissioners on Grievances and Discipline ("board") on stipulations and exhibits. Based on the stipulations of the parties and the information, plea agreement, and judgment in the United States District Court, the panel found that in one case, respondent told attorney Lawrence Seidita that he could make money settling a particular case if someone could contact attorney Joseph Dubyak, who represented the plaintiff.

Seidita contacted attorney Stuart Banks, who in turn contacted Dubyak, who agreed to participate in the scheme. With the inside information, Dubyak settled the case and gave a \$15,000 kickback to Banks, who shared it with Seidita and respondent.

In another case, respondent contacted Seidita and told him that he could provide information regarding a client of attorney Paul Gambrel to enable Gambrel to obtain a favorable settlement if Gambrel would pay a kickback. Gambrel agreed, settled the matter on the basis of the inside information from respondent, and paid a \$2,500 kickback to respondent.

The use of the United States mail in the process of these schemes led to respondent's conviction. The panel concluded that respondent's actions violated DR 1-102(A)(3) (a lawyer shall not engage in illegal conduct involving moral turpitude), 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation), 1-102(A)(5) (a lawyer shall not engage in conduct prejudicial to the administration of justice), and 1-102(A)(6) (a lawyer shall not engage in conduct adversely reflecting on the lawyer's fitness to practice law).

The panel found that respondent cooperated in the investigation of his wrongdoing, and, noting the stipulation of relator and respondent to relator's recommendation of an indefinite suspension, agreed that respondent should be indefinitely suspended from the practice of law.

The board adopted the findings, conclusions, and recommendation of the panel. In reviewing this matter, we first note that we previously suspended attorney Dubyak for his activity in connection with this kickback scheme, Disciplinary Counsel v. Dubyak (2001), 92 Ohio St.3d 18, 748 N.E.2d

26, as well as attorney Gambrel, Disciplinary Counsel v. Gambrel (2001), 94 Ohio St.3d 10, 759 N.E.2d 771, announced today.

We further note that attorney Seidita has resigned from the practice of law. In re Resignation of Seidita (2000), 90 Ohio St.3d 1209, 735 N.E.2d 894. Upon consideration of the record, we adopt the findings, conclusions, and recommendation of the board with respect to respondent. Respondent *20is hereby indefinitely suspended from the practice of law in Ohio. Costs are taxed to respondent.

Jonathan E. Coughlan, Disciplinary Counsel, and Gloria J. Sigman, Assistant Disciplinary Counsel, for relator. Thomas C. Buford, for respondent. Judgment accordingly. Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur.