

SUPREME COURT OF SOUTH CAROLINA

In re Warlick

352 S.C. 149 (2002) · Decided November 12, 2002

SUMMARY

The South Carolina Supreme Court reviewed an attorney disciplinary matter involving commingling and misuse of client funds, unauthorized practice of law, conflicts of interest, and other professional misconduct. The court disbarred the respondent, ordered restitution to injured parties, and imposed related compliance requirements.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam; Toal, C.J.; Moore, J.; Waller, J.; Burnett, J.; Pleicones, J.
JURISDICTION	South Carolina
DECIDED	November 12, 2002
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the Commission on Lawyer Conduct filed formal charges, the Subpanel and full Panel found numerous violations, and the Panel recommended disbarment.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; precedential disciplinary decision.
PARTIES	Office of Disciplinary Counsel v. Hal J. Warlick

TOPICS

- administrative law
- remedies
- restitution

PRACTICE AREAS

- legal ethics
- attorney discipline
- professional responsibility
- trust-account regulation
- restitution

QUESTIONS PRESENTED

- Whether the evidence established that respondent violated the South Carolina Rules of Professional Conduct and Rules for Lawyer Disciplinary Enforcement.

2. What sanction was appropriate for respondent's repeated trust-account violations, financial misconduct, unauthorized practice of law while suspended, and related misconduct.
3. Whether respondent should be ordered to make restitution to injured clients and the Lawyers' Fund for Client Protection and comply with related disciplinary requirements.

HOLDINGS

1. Respondent violated numerous provisions of Rule 407, SCACR, including rules governing competence, diligence, communication, fees, conflicts of interest, prohibited business transactions, safekeeping of property, advising clients, unauthorized practice of law, misconduct, and failure to respond to a disciplinary authority.
2. Disbarment was the appropriate sanction for respondent's egregious and repeated financial misconduct, practice of law while suspended, and involvement in improper financial transactions with clients.
3. Respondent must pay the costs of the disciplinary proceedings and make restitution to all injured parties, including clients and the Lawyers' Fund for Client Protection.

KEY QUOTATIONS

"In light of respondent's egregious misconduct, we find the Panel correctly concluded he should be disbarred." (161)

"Consequently, we disbar respondent, effective as of the date of this opinion, and order him to pay the costs of the disciplinary proceedings." (161-162)

"We also order respondent to make restitution to all injured parties, including clients and the Lawyers' Fund for Client Protection." (162)

FACTUAL BACKGROUND

Warlick repeatedly failed to maintain a proper trust account and commingled client funds with personal and operating funds, causing his special account to have negative balances. He entered into undisclosed or unfair financial transactions with clients, failed to safeguard and account for settlement proceeds, and failed to make required distributions or restitution. He also practiced law after being placed on interim suspension and committed additional violations involving client communication, fees, conflicts, and cooperation with disciplinary authorities.

PROCEDURAL HISTORY

The Commission on Lawyer Conduct filed formal charges concerning numerous instances of misconduct. The Subpanel made findings and recommendations, the full Panel adopted the Subpanel's report and recommended disbarment, and the Supreme Court of South Carolina reviewed the matter and imposed disbarment, restitution, costs, and related compliance obligations.

DISPOSITION

other

CASES CITED

- In re Warlick, 334 S.C. 243, 513 S.E.2d 352 (1999)
- In re Warlick, 287 S.C. 380, 339 S.E.2d 110 (1986)
- United States v. Warlick, 742 F.2d 113 (4th Cir. 1984)
- In re Warlick, 296 S.C. 350, 372 S.E.2d 910 (1988)
- In re Larkin, 336 S.C. 366, 520 S.E.2d 804 (1999)
- In re McMillan, 327 S.C. 98, 490 S.E.2d 1 (1997)
- In re Thompson, 343 S.C. 1, 539 S.E.2d 396 (2000)
- In re Miller, 328 S.C. 283, 494 S.E.2d 120 (1997)
- In re Hendricks, 319 S.C. 465, 462 S.E.2d 286 (1995)
- In re Bowers, 303 S.C. 282, 400 S.E.2d 134 (1991)