

SUPREME COURT OF WISCONSIN

Office of Lawyer Regulation v. James M. Schoenecker

368 Wis. 2d 57 (2016) · No. 2015AP275-D · Decided April 22, 2016

SUMMARY

The Wisconsin Supreme Court reviewed a disciplinary proceeding against James M. Schoenecker based on stipulated misconduct involving misuse of GameMaster, LLC funds and personal expenses charged to the company. The court found a violation of SCR 20:8.4(c) and imposed a prospective one-year suspension of Schoenecker's Wisconsin law license. The court also ordered him to pay one-half of the Office of Lawyer Regulation's costs, totaling \$4,250.30.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Wisconsin
DECIDED	April 22, 2016
DOCKET	2015AP275-D
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding submitted to the Wisconsin Supreme Court for review of a referee's report and recommendation after neither party filed an appeal.
STANDARD OF REVIEW	The referee's findings of fact are affirmed unless clearly erroneous; conclusions of law are reviewed de novo; and the court may impose whatever sanction it deems appropriate regardless of the referee's recommendation.
PRECEDENTIAL VALUE	published
PARTIES	Office of Lawyer Regulation v. James M. Schoenecker

TOPICS

[limited liability companies](#) [corporate law](#) [remedies](#)

PRACTICE AREAS

[legal ethics](#) [attorney discipline](#) [professional responsibility](#) [limited liability companies](#)

QUESTIONS PRESENTED

1. Whether the referee's findings of fact and conclusion that Schoenecker violated SCR 20:8.4(c) were supported by the record.
2. Whether a one-year suspension was an appropriate sanction for Schoenecker's repeated dishonest misuse of limited-liability-company funds.
3. Whether the suspension should be imposed retroactively or prospectively.
4. Whether Schoenecker should be ordered to pay one-half of the Office of Lawyer Regulation's costs.

HOLDINGS

1. The referee's findings of fact were supported by satisfactory and convincing evidence and were not clearly erroneous, and Schoenecker violated SCR 20:8.4(c) by repeatedly misusing GameMaster, LLC funds in a manner involving deceit and misrepresentation.
2. A one-year suspension of Schoenecker's Wisconsin law license was appropriate.
3. The one-year suspension should be prospective and effective on the date of the order, rather than retroactive to the filing of the complaint or the end of Schoenecker's prior suspension.
4. Schoenecker was ordered to pay one-half of the Office of Lawyer Regulation's \$8,500.59 in costs, totaling \$4,250.30.

KEY QUOTATIONS

"We have previously held that a retroactive suspension is generally not favored in the absence of some "compelling circumstance," and we find no such compelling circumstance here." (¶ 17)

"Thus, we conclude that Attorney Schoenecker's one-year suspension should be prospective, commencing from the date of this decision." (¶ 19)

"IT IS ORDERED that the license of James M. Schoenecker to practice law in Wisconsin is suspended for a period of one year, effective the date of this order." (¶ 26)

FACTUAL BACKGROUND

While his Wisconsin law license remained suspended, James M. Schoenecker helped form and served as chief executive manager of GameMaster, LLC. He failed to timely account for a \$25,000 capital contribution, deposited most of that money into his personal account, and repeatedly used company funds and company credit cards for personal expenses and cash withdrawals without partner approval. The conduct occurred after his prior three-year suspension for dishonest conduct.

PROCEDURAL HISTORY

The Office of Lawyer Regulation filed a two-count disciplinary complaint alleging unauthorized practice of law and dishonest conduct. The unauthorized-practice count was later dismissed, and Schoenecker stipulated to a no-contest disposition on the dishonesty count involving misuse of limited-liability-company funds. The referee recommended a one-year suspension retroactive to February 10, 2015, and an assessment of one-half of the

proceeding's costs. The Wisconsin Supreme Court adopted the findings and one-year sanction but made the suspension prospective as of the order date and imposed one-half of the stated costs.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Schoenecker, 2011 WI 76, 336 Wis. 2d 253, 804 N.W.2d 686
- In re Disciplinary Proceedings Against Eisenberg, 2004 WI 14, 269 Wis. 2d 43, 675 N.W.2d 747
- In re Disciplinary Proceedings Against Widule, 2003 WI 34, 261 Wis. 2d 45, 660 N.W.2d 686
- In re Disciplinary Proceedings Against Cotter, 213 Wis. 2d 196, 570 N.W.2d 248 (1997)
- In re Disciplinary Proceedings Against Cotter, 171 Wis. 2d 373, 491 N.W.2d 475 (1992)
- In re Disciplinary Proceedings Against Boyd, 2009 WI 59, 318 Wis. 2d 281, 767 N.W.2d 226
- In re Disciplinary Proceedings Against Cooper, 2013 WI 55, 348 Wis. 2d 266, 833 N.W.2d 88
- In re Disciplinary Proceedings Against and Reinstatement of Mandelman, 182 Wis. 2d 583, 514 N.W.2d 11 (1994)