

SUPREME COURT OF WISCONSIN

Office of Lawyer Regulation v. James E. Hammis

361 Wis. 2d 1 (2015) · No. 2012AP818-D · Decided February 17, 2015

SUMMARY

The Wisconsin Supreme Court reviewed disciplinary proceedings against attorney James E. Hammis and upheld findings that he committed nine counts of professional misconduct. The court suspended Hammis's Wisconsin law license for 90 days, ordered him to pay \$995 in restitution and the costs of the proceeding, and required compliance with applicable suspension rules.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Wisconsin
DECIDED	February 17, 2015
DOCKET	2012AP818-D
DISPOSITION	other
PROCEDURAL POSTURE	Attorney Hammis appealed a referee's report in a Wisconsin attorney disciplinary proceeding. The referee found nine counts of professional misconduct and recommended a four-month license suspension, restitution, and payment of costs.
STANDARD OF REVIEW	A referee's findings of fact are affirmed unless clearly erroneous; conclusions of law are reviewed de novo. The court may impose whatever sanction it sees fit regardless of the referee's recommendation.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; precedential
PARTIES	James E. Hammis v. Office of Lawyer Regulation

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QUESTIONS PRESENTED

1. Whether the referee's findings that Hammis committed all nine charged counts of professional misconduct were clearly erroneous.
2. Whether the referee correctly concluded that Hammis violated the cited Wisconsin Supreme Court Rules of Professional Conduct and disciplinary rules.
3. What sanction was appropriate for Hammis's misconduct, including whether a public reprimand or four-month suspension was warranted.
4. Whether Hammis should be ordered to pay \$995 in restitution and the full costs of the disciplinary proceeding.

HOLDINGS

1. The referee's factual findings were not clearly erroneous and were adopted by the court.
2. The court agreed with the referee's conclusions of law that Hammis violated all of the supreme court rules alleged in the complaint.
3. A 90-day suspension of Hammis's Wisconsin law license was appropriate, rather than the four-month suspension recommended by the referee or a public reprimand sought by Hammis.
4. Hammis was required to pay \$995 in restitution to I.B. and the full costs of the disciplinary proceeding.

KEY QUOTATIONS

“A referee’s findings of fact are affirmed unless clearly erroneous. Conclusions of law are reviewed de novo.”
(¶23)

“On balance, we conclude that a 90-day suspension, which was the level of discipline originally sought by the OLR, rather than the four-month suspension recommended by the referee, will sufficiently protect the public from similar misconduct and impose upon Attorney Hammis the gravity of the misconduct.” (¶26)

FACTUAL BACKGROUND

Hammis was convicted in Ohio in 2005 of misdemeanor reckless endangering and failed to report the conviction to Wisconsin disciplinary authorities or pay the related court costs. In representing incarcerated client I.B. in a sentence-modification matter, Hammis received \$1,395 in advance fees, deposited the money into his business account rather than a client trust account, failed to communicate adequately, failed to refund the unearned fee or timely return client documents, and failed to cooperate fully with the OLR investigation. Hammis had previously received a four-month suspension for professional misconduct, including similar misconduct.

PROCEDURAL HISTORY

The Office of Lawyer Regulation filed its complaint on April 18, 2012. After a May 14, 2013 evidentiary hearing, referee James C. Boll Jr. issued a report on August 5, 2013, finding all nine counts proven and recommending a four-month suspension, \$995 in restitution, and payment of the proceeding's full costs. The Wisconsin Supreme Court adopted the referee's factual findings and legal conclusions but imposed a 90-day suspension instead of four months.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Hammis, 2011 WI 3, 331 Wis. 2d 19, 793 N.W.2d 884
- 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

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