

# SUPREME COURT OF OHIO

## Disciplinary Counsel v. Hartsock

94 Ohio St. 3d 18, 2001-Ohio-6977 (Ohio 2001) · No. 01-1208 · Decided December 19, 2001

### SUMMARY

The Ohio Supreme Court indefinitely suspended Walter D. Hartsock from practicing law after his conviction for mail fraud conspiracy arising from kickback arrangements involving insider insurance settlement information. The court adopted findings that his conduct violated multiple provisions of the Code of Professional Responsibility and taxed costs to him.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Ohio                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Per Curiam; Moyer, C.J.; Douglas, J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.                                                                                                                  |
| JURISDICTION          | Ohio                                                                                                                                                                                                                               |
| DECIDED               | December 19, 2001                                                                                                                                                                                                                  |
| DOCKET                | 01-1208                                                                                                                                                                                                                            |
| DISPOSITION           | other                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Attorney-discipline proceeding on a certified report from the Board of Commissioners on Grievances and Discipline concerning stipulated findings of professional misconduct and the recommended sanction of indefinite suspension. |
| STANDARD OF REVIEW    | The Supreme Court of Ohio independently reviewed the certified disciplinary record and adopted the board's findings, conclusions, and recommendation.                                                                              |
| PRECEDENTIAL VALUE    | published and precedential                                                                                                                                                                                                         |
| PARTIES               | Office of Disciplinary Counsel v. Walter D. Hartsock                                                                                                                                                                               |

### TOPICS

insurance

criminal procedure

### PRACTICE AREAS

legal ethics

attorney discipline

professional misconduct

insurance-related fraud

## QUESTIONS PRESENTED

1. Whether Hartsock's conduct in providing insider insurance-settlement information in exchange for kickbacks violated the cited provisions of the Ohio Code of Professional Responsibility.
2. What sanction was appropriate for the established misconduct.

## HOLDINGS

1. Hartsock's conduct violated DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(5), and DR 1-102(A)(6), because it involved illegal conduct involving moral turpitude, dishonesty, fraud, deceit or misrepresentation, conduct prejudicial to the administration of justice, and conduct adversely reflecting on his fitness to practice law.
2. The court indefinitely suspended Hartsock from the practice of law in Ohio and taxed costs to him.

## KEY QUOTATIONS

*“Respondent is hereby indefinitely suspended from the practice of law in Ohio. Costs are taxed to respondent.”* (94 Ohio St. 3d at 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. He received kickbacks in connection with at least two settlements, including \$2,500 in one matter and a share of a \$15,000 kickback in another. The use of the United States mail in these schemes resulted in his federal conviction for mail fraud conspiracy.

## PROCEDURAL HISTORY

After Hartsock was convicted in federal district court of mail fraud conspiracy arising from kickback schemes involving insider insurance-settlement information, the Supreme Court of Ohio imposed an interim suspension. The Office of Disciplinary Counsel then filed a disciplinary complaint. A panel considered stipulations, exhibits, and federal-court materials, found violations of multiple disciplinary rules, 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

Office of Disciplinary Counsel v. Gambrel

2001 Ohio 6977

PER CURIAM.

[Cite as Disciplinary Counsel v. Hartsock, 94 Ohio St.3d 18, 2001-Ohio-6977.] OFFICE OF DISCIPLINARY COUNSEL v. HARTSOCK. [Cite as Disciplinary Counsel v. Hartsock (2001), 94 Ohio St.3d 18.] Attorneys at law — Misconduct — Indefinite suspension — Conviction for mail fraud conspiracy — Providing insider settlement information to attorneys who represented plaintiffs against insurance company in exchange for kickbacks. (No. 01-1208 — Submitted August 28, 2001 — Decided December 19, 2001.) ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 00-83.

\_\_\_\_\_ 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. 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

## SUPREME COURT OF OHIO

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 2 January Term, 2001 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 is hereby indefinitely suspended from the practice of law in Ohio. Costs are taxed to respondent. Judgment accordingly.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and  
LUNDBERG STRATTON, JJ., concur. \_\_\_\_\_ Jonathan E. Coughlan, Disciplinary  
Counsel, and Gloria J. Sigman, Assistant Disciplinary Counsel, for relator. Thomas C. Buford, for  
respondent. \_\_\_\_\_ 3