

SUPREME COURT OF OHIO

Columbus Bar Ass'n v. Boggs

103 Ohio St. 3d 108 (Ohio 2004) · Decided September 15, 2004

SUMMARY

The Supreme Court of Ohio disciplined Kenneth Ray Boggs for violating professional-conduct rules governing the segregation and accounting of client funds. The court imposed a one-year suspension from practice, stayed on conditions including one year of probation under a monitor's supervision and completion of continuing legal education in law-office management.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.
JURISDICTION	Ohio
DECIDED	September 15, 2004
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding submitted to the Supreme Court of Ohio on the parties' consent-to-discipline agreement after a panel and the Board of Commissioners on Grievances and Discipline adopted the stipulated misconduct and recommended sanction.
STANDARD OF REVIEW	The Supreme Court of Ohio reviewed the stipulated misconduct and recommended sanction and determined whether the agreed sanction was commensurate with the misconduct.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Ohio

TOPICS

trust administration

trustee duties

trusts

remedies

PRACTICE AREAS

legal ethics

attorney discipline

trust-account administration

QUESTIONS PRESENTED

1. Whether respondent violated DR 9-102(A) by failing to maintain client funds separately from his own funds in an identifiable bank account.
2. Whether respondent violated DR 9-102(B)(3) by failing to maintain complete records of client funds and render appropriate accounts.
3. Whether a one-year suspension, stayed during one year of probation and subject to continuing-legal-education and monitoring conditions, was an appropriate sanction.

HOLDINGS

1. Respondent violated DR 9-102(A) by commingling trust money with his own funds and mistakenly using his operating account as his trust account.
2. Respondent violated DR 9-102(B)(3) by failing to keep complete records of client funds and render appropriate accounts.
3. A one-year suspension from the practice of law, with enforcement stayed on conditions including one year of monitored probation and twelve hours of continuing legal education in law-office management, was a commensurate sanction.

KEY QUOTATIONS

“The examination revealed, inter alia, that Respondent’s available trust records were disordered, incomplete, unreconciled, often illegible, and otherwise [incapable of being] audited.” (§ 7)

“Accordingly, respondent is suspended from the practice of law in Ohio for one year; however, enforcement of this sanction is stayed on the conditions that respondent successfully complete a one-year probation in accordance with Gov.Bar R. V(9) under the supervision of a monitor to be appointed by relator and that respondent complete 12 hours of continuing legal education consisting of course work on law office management.” (§ 15)

FACTUAL BACKGROUND

Respondent failed to maintain complete, orderly, reconciled, and auditable records for his client trust account. His records did not reliably identify whose money was held, the amounts attributable to particular clients, or the purposes of checks and other disbursements. He also commingled trust funds with his own funds by using his operating account as a trust account and disbursing trust money from that account. The misconduct arose during an investigation of, among other matters, an insufficient-funds check intended to repay unearned fees and a delayed repayment connected to a failed real estate transaction.

PROCEDURAL HISTORY

The Columbus Bar Association charged respondent Kenneth Ray Boggs with violations of the Code of Professional Responsibility, including failures involving the maintenance and accounting of client trust funds. The parties entered a consent-to-discipline agreement, which was accepted by a panel and the Board of Commissioners on Grievances and Discipline. The Supreme Court of Ohio independently reviewed the matter, agreed with the findings and recommended sanction, and imposed a one-year suspension stayed on specified conditions.

DISPOSITION

other

CASES CITED

- Columbus Bar Assn. v. Boggs, 39 Ohio St. 3d 601, 529 N.E.2d 936 (Ohio 1988)

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