

SUPREME COURT OF FLORIDA

Florida Bar v. Watson

76 So. 3d 915 (Fla. 2011) · Decided December 8, 2011

SUMMARY

The Florida Supreme Court reviewed disciplinary proceedings against attorney William Bedford Watson, III, involving the handling and disbursement of investor funds held in his trust account. The court found three violations involving dishonesty, fraud, deceit, or misrepresentation and approved four violations concerning the improper use of entrusted property. It rejected the referee’s recommended ninety-day suspension and imposed a three-year suspension, effective nunc pro tunc to October 1, 2009.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Florida                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Per Curiam; Canady, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Polston, J.; Labarga, J.; Perry, J.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| JURISDICTION          | Florida                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DECIDED               | December 8, 2011                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | The Florida Bar sought review of a referee's report in an attorney disciplinary proceeding, challenging the referee's findings that Watson acted negligently and the recommended ninety-day suspension.                                                                                                                                                                                                                                                                                                                                                                                                 |
| STANDARD OF REVIEW    | A referee's factual findings, including findings concerning intent, must be upheld if supported by competent, substantial evidence. The Court's review of recommendations as to guilt requires that the referee's findings sufficiently support the recommendations under the applicable rules. Review of recommended discipline is broader because the Court bears ultimate responsibility for imposing the appropriate sanction, although it generally will not second-guess a recommendation having a reasonable basis in existing case law and the Florida Standards for Imposing Lawyer Sanctions. |
| PRECEDENTIAL VALUE    | Published opinion of the Supreme Court of Florida; precedential.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| PARTIES               | The Florida Bar v. William Bedford Watson, III                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

## TOPICS

trust administration

trustee duties

breach of trust

trusts

commercial litigation

## PRACTICE AREAS

legal ethics

attorney discipline

trust-account administration

commercial transactions

## QUESTIONS PRESENTED

1. Whether competent, substantial evidence supported the referee's finding that Watson acted negligently rather than deliberately or knowingly in connection with the trust-account transactions.
2. Whether Watson violated rule 4-8.4(c) by deliberately or knowingly preparing and distributing dishonest letters, withholding truthful information about investor funds, and disbursing funds contrary to his assurances.
3. Whether the referee's recommended ninety-day suspension and probation were an appropriate disciplinary sanction.
4. Whether Watson owed fiduciary duties to nonclient investors whose funds he accepted into his attorney trust account.

## HOLDINGS

1. For purposes of establishing intent under rule 4-8.4(c), the Bar need show that the lawyer deliberately or knowingly engaged in the challenged conduct; a dishonest motive or successful reliance is not required.
2. A lawyer violates rule 4-8.4(c) by deliberately preparing, signing, and providing materially dishonest letters, even if no recipient is shown to have relied on them.
3. When a lawyer accepts funds into an attorney trust account under an escrow arrangement involving a client and nonclient principals, the lawyer owes fiduciary duties to all principals and must hold and disburse the funds according to the parties' agreement.
4. A three-year suspension was the appropriate sanction for Watson's egregious, deliberate or knowing misuse and disbursement of trust-account funds, and the referee's ninety-day suspension and probation recommendation lacked a reasonable basis.

## KEY QUOTATIONS

*"Deceitful conduct does not have to be successful in order to be found dishonest." (923)*

*"By undertaking to do so, the lawyer establishes a new legal relationship with the principal parties either by an expressed agreement or by an agreement implied in law." (924)*

*"Respondent's flagrant misuse of his position as an attorney, by which he purposefully lulled members of the public into thinking their funds would be safe in his account, merits a severe sanction." (925)*

*"It is well settled that the misuse of funds held in trust is one of the most serious offenses a lawyer can commit and that disbarment is presumed to be the appropriate sanction." (926)*

## FACTUAL BACKGROUND

Watson accepted substantial funds from investors who understood that the money would remain secure in his attorney trust account for a specific investment transaction. Despite written assurances to at least one investor and similar understandings communicated by others, Watson disbursed the funds at the direction of another participant without obtaining the investors' permission. He also prepared and signed letters falsely indicating that two individuals had invested when they had not, and later failed to give investors truthful information or an accounting concerning the disposition of their money.

## PROCEDURAL HISTORY

The Bar filed a four-count disciplinary complaint alleging violations arising from Watson's handling and disbursement of investor funds held in his trust account. After hearings, the referee found four violations of rule 5-1.1(b), recommended that Watson be found not guilty of rule 4-8.4(c), and recommended a ninety-day suspension followed by probation. The Supreme Court of Florida approved the factual findings, rejected the referee's conclusions concerning rule 4-8.4(c) and discipline, found three violations of that rule, disapproved probation, and imposed a three-year suspension effective nunc pro tunc to October 1, 2009.

## DISPOSITION

other

## CASES CITED

- Florida Bar v. Nicnick, 963 So. 2d 219, 223-24 (Fla. 2007)
- Florida Bar v. Forrester, 818 So. 2d 477 (Fla. 2002)
- Florida Bar v. Fredericks, 731 So. 2d 1249, 1252 (Fla. 1999)
- Florida Bar v. Brown, 905 So. 2d 76, 81 (Fla. 2005)
- Florida Bar v. Barley, 831 So. 2d 163, 169 (Fla. 2002)
- Florida Bar v. Riggs, 944 So. 2d 167, 171 (Fla. 2006)
- Florida Bar v. Smith, 866 So. 2d 41 (Fla. 2004)
- Florida Bar v. Lanford, 691 So. 2d 480, 481 (Fla. 1997)
- Florida Bar v. Shoureas, 913 So. 2d 554, 557-58 (Fla. 2005)
- Florida Bar v. Ward, 599 So. 2d 650, 652 (Fla. 1992)
- Florida Bar v. Martinez-Genova, 959 So. 2d 241 (Fla. 2007)
- Florida Bar v. Joy, 679 So. 2d 1165, 1167 (Fla. 1996)
- Florida Bar v. Anderson, 538 So. 2d 852, 854 (Fla. 1989)
- Florida Bar v. Temmer, 753 So. 2d 555, 558 (Fla. 1999)
- Florida Bar v. Berman, 659 So. 2d 1049 (Fla. 1995)
- Florida Bar v. Whigham, 525 So. 2d 873 (Fla. 1988)
- Florida Bar v. Hall, 49 So. 3d 1254, 1259 (Fla. 2010)
- Florida Bar v. Hosner, 520 So. 2d 567, 568 (Fla. 1988)

- Florida Bar v. Rotstein, 835 So. 2d 241, 246 (Fla. 2002)
- Florida Bar v. Korones, 752 So. 2d 586, 591 (Fla. 2000)
- Florida Bar v. Head, 27 So. 3d 1, 8 (Fla. 2010)
- Florida Bar v. Travis, 765 So. 2d 689, 691 (Fla. 2000)
- Florida Bar v. Tillman, 682 So. 2d 542 (Fla. 1996)

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