

SUPREME COURT OF PENNSYLVANIA

Office of Disciplinary Counsel v. Barger

80 Pa. D. & C.4th 117 (Pa. 2005) · Decided September 14, 2005

SUMMARY

The Supreme Court of Pennsylvania granted a joint petition for discipline on consent concerning attorney David Louis Barger. The matter involved conversion, commingling, and failure to remit approximately \$11,082.75 in client settlement funds, along with related failures to communicate and false annual fee-form representations. The court ordered Barger suspended from practice for three years and required compliance with Pa.R.D.E. 217 and payment of disciplinary costs.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Gephart; Smith Barton Gephart; Marvin J. Rudnitsky; William A. Pietragallo
JURISDICTION	Pennsylvania
DECIDED	September 14, 2005
DISPOSITION	other
PROCEDURAL POSTURE	The Office of Disciplinary Counsel and respondent attorney David Louis Barger filed a joint petition for discipline on consent under Pennsylvania Rule of Disciplinary Enforcement 215. A three-member panel of the Disciplinary Board recommended approval and a three-year suspension, which the Supreme Court of Pennsylvania granted.
PRECEDENTIAL VALUE	Published disciplinary decision
PARTIES	Office of Disciplinary Counsel v. David Louis Barger

TOPICS

administrative law

agency adjudication

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether Barger on violated Pennsylvania Rules of Professional Conduct 1.4, 1.5(c), 1.15, and 8.4 and Pennsylvania Rules of Disciplinary Enforcement 203(b)(3) and 219(d)(iii) by failing to communicate with a client, failing to account for and deliver settlement proceeds, commingling and converting client funds, making misrepresentations on annual-fee forms, and violating disciplinary rules.
2. Whether discipline on consent in the form of a three-year suspension was appropriate.

HOLDINGS

1. Barger on's admitted conduct violated the cited Pennsylvania Rules of Professional Conduct and Rules of Disciplinary Enforcement and warranted public discipline.
2. A three-year suspension from the practice of law was appropriate discipline on consent, together with compliance with Rule 217 and payment of disciplinary-board costs.

FACTUAL BACKGROUND

Barger on represented Latif Hazim in a personal-injury claim arising from a 2000 automobile accident and obtained a \$15,000 settlement from Nationwide. Instead of depositing the settlement funds into an IOLTA, trust, or escrow account, Barger on deposited the check into a personal account that later became overdrawn, while failing to remit or account for \$11,082.75 belonging to Hazim. Barger on also submitted false attorney annual-fee forms concerning the existence and location of client-fund accounts and admitted the misconduct while consenting to discipline.

PROCEDURAL HISTORY

The Disciplinary Board panel reviewed the joint petition filed on August 26, 2005, approved the consent discipline, and recommended a three-year suspension. On October 24, 2005, the Supreme Court of Pennsylvania granted the petition, suspended Barger on for three years, required compliance with Rule 217, and ordered payment of disciplinary-board costs.

DISPOSITION

other

CASES CITED

- In re Anonymous No. 67 D.B. 92 (Harold E. Krauss), 27 D. & C.4th 202, 210 (1994)
- In re Anonymous No. 89 D.B. 2001 (Lawrence T. Foti), 69 D. & C.4th 278 (2003)
- In re Anonymous No. 132 D.B. 88 (Charles S. Morrow), 7 D. & C.4th 331 (1990)
- In re Anonymous No. 50 D.B. 87 (James C. Evans), 3 D. & C.4th 627 (1989)