

SUPREME COURT OF THE STATE OF HAWAI‘I

Office of Disciplinary Counsel v. Castroverde

Castroverde · No. SCAD-16-0000037 · Decided April 21, 2016

SUMMARY

The Supreme Court of Hawai‘i ordered Lance Castroverde disbarred for multiple violations of the Hawai‘i Rules of Professional Conduct arising from conflicts of interest, misappropriation of client funds, unreasonable fees, mishandling of escrow funds, improper loans, false notations, and failures during disciplinary investigation. The court also imposed conditions on any future reinstatement, including repayment of misappropriated funds, trust-account training, passage of the Hawai‘i bar examination, and payment of proceeding costs.

CASE DETAILS

COURT	Supreme Court of the State of Hawai‘i
WRITING FOR THE COURT	Mark E. Recktenwald, C.J.; Paula A. Nakayama, J.; Richard W. Pollack, J.; Michael D. Wilson, J.; Lisa M. Ginoza, Associate Judge
JURISDICTION	Hawaii
DECIDED	April 21, 2016
DOCKET	SCAD-16-0000037
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding reviewing the Disciplinary Board of the Supreme Court of the State of Hawai‘i's report and findings concerning Respondent Lance Castroverde.
STANDARD OF REVIEW	The court reviewed the Disciplinary Board's findings and record and determined violations by clear and convincing evidence; it corrected a finding that was clearly erroneous.
PRECEDENTIAL VALUE	Published disciplinary order; binding as to the court's adjudication of this respondent's professional-conduct violations and sanction.
PARTIES	Office of Disciplinary Counsel v. Lance Castroverde

TOPICS

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trusts

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PRACTICE AREAS

attorney discipline

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professional misconduct

QUESTIONS PRESENTED

1. Whether the record established by clear and convincing evidence that Castroverde violated the Hawai'i Rules of Professional Conduct through conflicts of interest, mishandling and misappropriation of client funds, unreasonable fees, incompetent representation, dishonesty, improper business transactions with clients, and obstruction of the disciplinary investigation.
2. Whether the proven misconduct warranted disbarment under the applicable disciplinary standards.
3. What conditions should govern any future petition for reinstatement.

HOLDINGS

1. Castroverde violated HRPC Rule 1.7(a) by representing both sellers and buyers in the home-sale transaction, the related Collection and Holding Agreement, and its administration, where the parties' interests were directly adverse and he did not obtain the required consent after consultation.
2. Castroverde violated HRPC Rule 1.7(b) by representing the buyers and sellers when the representation was adversely affected by his preexisting relationship and responsibilities to the mortgage broker, who was also his client and with whom he had personal lending dealings.
3. Castroverde violated HRPC Rule 1.15(c) by removing and using buyers' funds and loan proceeds held in his client trust account to which he was not entitled.
4. Castroverde violated HRPC Rule 1.5(a) by charging unreasonable fees for arranging and administering the transaction and escrow.
5. Castroverde violated HRPC Rule 1.15(f)(3) by failing to provide the periodic and annual reports required by the Collection and Holding Agreement and by failing to timely account to the parties for trust and escrow funds.
6. Castroverde violated HRPC Rule 1.1 by failing to record the Agreement of Sale when recording was necessary to protect the buyers' rights and interests, and violated HRPC Rules 1.2(d), 4.1(b), and 8.4(c) by facilitating a mortgage obtained under false pretenses and failing to disclose the agreement to the new mortgagee.
7. Castroverde violated HRPC Rules 1.2(d) and 8.4(c) by issuing checks to sellers that falsely characterized buyer-funded interest payments as interest on a loan from the Castroverde Family Trust.
8. Castroverde violated HRPC Rule 1.8(a) by entering into the \$50,000 and \$61,000 loan transactions with client-sellers without fair and reasonable terms, adequate written disclosure, a reasonable opportunity for independent legal advice, and written consent to the conflicts.
9. Castroverde violated HRPC Rules 8.1(b), 8.4(d), 1.15(g)(2), and 1.15(g)(9) by failing to provide requested disciplinary documents and failing to maintain required client-fund ledgers and quarterly trust-account listings for six years.

10. Disbarment was warranted because Castroverde's knowing and intentional misconduct involved misappropriation, dishonesty, multiple offenses, substantial experience, selfish motive, obstruction, refusal to acknowledge wrongdoing, and indifference to restitution.

KEY QUOTATIONS

“we find and conclude, by clear and convincing evidence, that the record supports the Board’s Findings of Fact” (2)

“We concur with the Board that Respondent Castroverde’s conduct was knowing and intentional and, under Standard 4.11 of the American Bar Association’s Standards for Lawyer Discipline, his conduct warrants disbarment.” (7)

“IT IS HEREBY ORDERED that Respondent Lance Castroverde is disbarred from the practice of law in this jurisdiction” (8)

FACTUAL BACKGROUND

Castroverde represented both buyers and sellers in a home sale and related collection and holding arrangements, while also having a preexisting relationship with a mortgage broker involved in the transaction. He misappropriated client funds, charged unreasonable escrow-related fees, failed to provide required reports and maintain required trust-account records, and failed to record or disclose an agreement of sale, facilitating a mortgage obtained under false pretenses. He also entered into improper loan transactions with client-sellers, misappropriated nearly all of the borrowed funds, issued checks containing false descriptions, and failed to provide documents requested during the disciplinary investigation.

PROCEDURAL HISTORY

The Disciplinary Board submitted a January 21, 2016 report to the Supreme Court of Hawai‘i. The court reviewed the record, adopted the Board's findings except for correcting one factual notation, independently concluded that Castroverde committed numerous violations of the Hawai‘i Rules of Professional Conduct, and ordered disbarment.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Castroverde was disbarred effective 30 days after entry of the order; he was required to file a compliance affidavit within 10 days after the effective date, repay all misappropriated funds, complete client-funds training, pass the Hawai‘i bar examination, and submit proof of compliance with any future reinstatement petition. He was also ordered to pay proceeding costs.