

INDIANA SUPREME COURT

In re Lehman

24 N.E.3d 536 (Ind. 2014) · Decided February 19, 2014

SUMMARY

The Indiana Supreme Court found that Respondent engaged in extensive professional misconduct involving incompetent representation, improper handling and disclosure of client information, deficient court filings and appearances, and trust-account violations. The Court suspended Respondent from practicing law for a minimum of two years without automatic reinstatement and assessed the proceeding’s costs against Respondent.

CASE DETAILS

COURT	Indiana Supreme Court
JURISDICTION	Indiana
DECIDED	February 19, 2014
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding based on a verified complaint filed by the Indiana Supreme Court Disciplinary Commission and a hearing officer's report finding misconduct.
STANDARD OF REVIEW	When neither party challenges a hearing officer's findings, the Court accepts and adopts those findings but reserves final judgment as to misconduct and sanction.
PRECEDENTIAL VALUE	Published disciplinary order; precedential as to the Court’s treatment of the uncontested hearing officer findings and the imposed attorney-discipline sanction.

TOPICS

- bankruptcy
- appellate procedure
- sanctions
- civil procedure

PRACTICE AREAS

- legal ethics
- attorney discipline
- bankruptcy practice
- trust accounts

QUESTIONS PRESENTED

- Whether the uncontested findings of the hearing officer established professional misconduct.

2. Whether Respondent violated the identified Indiana Professional Conduct Rules and Admission and Discipline Rule 23 provisions.
3. What sanction was appropriate for Respondent's extensive pattern of professional misconduct, including incompetence, confidentiality violations, deficient practice, and trust-account misconduct.

HOLDINGS

1. When neither party challenges the hearing officer's findings, the Court accepts and adopts those findings but retains final judgment regarding whether the conduct constitutes misconduct and what sanction is appropriate.
2. Respondent committed professional misconduct by violating Indiana Professional Conduct Rules 1.1, 1.2(a), 1.6(a), 1.9(c)(2), 1.15(a), and 8.4(d), as well as Indiana Admission and Discipline Rule 23(29)(a)(2), (3), and (4).
3. Respondent should be suspended from the practice of law for a minimum of two years without automatic reinstatement.

KEY QUOTATIONS

“When neither party challenges the findings of the hearing officer, “we accept and adopt those findings but reserve final judgment as to misconduct and sanction.”” (536)

“The bankruptcy court found that Respondent was not doing a good job, and that he and his client were “hiding the ball.”” (537)

“Reinstatement is discretionary and requires clear and convincing evidence of the attorney’s remorse, rehabilitation, and fitness to practice law.” (538)

FACTUAL BACKGROUND

Respondent repeatedly failed to appear for client matters and hearings, filed defective and incomplete pleadings, and was held in contempt in at least one matter. He discarded confidential client files in a trash bin, exposing sensitive personal and financial information. In a bankruptcy representation, he filed inappropriate or incomplete cases, failed to disclose claims and assets, and failed to provide complete and accurate schedules. He also commingled client and personal funds in his trust account, could not identify the source or beneficiary of numerous transactions, and made personal and office-related disbursements from the account.

PROCEDURAL HISTORY

The Indiana Supreme Court appointed a hearing officer to hear evidence on the Disciplinary Commission's verified complaint. The hearing officer filed her report on November 5, 2013, and neither party petitioned for review. The Supreme Court adopted the uncontested factual findings, independently determined misconduct and sanction, and imposed a suspension.

DISPOSITION

other

CASES CITED

- Matter of Levy, 726 N.E.2d 1257, 1258 (Ind. 2000)

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