

SUPREME COURT OF WASHINGTON

In Re Disciplinary Proceeding Against Poole, 156 Wash. 2d 196

125 P.3d 954 (Wash. 2006) · No. Nos. 200,124-6, 200,131-9 · Decided January 5, 2006

SUMMARY

The Washington Supreme Court reviews disciplinary charges against attorney Jeffrey G. Poole arising from his representation of Joseph Matson. The court affirms findings that Poole backdated and presented an invoice in violation of professional conduct rules and failed to account for client funds, but reverses the finding that he improperly deposited a judgment payment outside the client trust account. The court orders a six-month suspension followed by two years of probation and periodic trust-account audits.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Bridge, J.; C. Johnson, J.; Owens, J.; Fairhurst, J.; Brown, J.P.T.; Chambers, J.; Madsen, J.; Alexander, C.J.; J.M. Johnson, J.
JURISDICTION	Washington
DECIDED	January 5, 2006
DOCKET	Nos. 200,124-6, 200,131-9
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which Poole and the Washington State Bar Association sought review of the Washington State Bar Association Disciplinary Board's decision increasing the recommended suspension from six months to one year.
STANDARD OF REVIEW	The court exercised plenary authority over attorney-discipline matters; it gave considerable weight to hearing-officer factual findings, particularly credibility findings, and upheld findings supported by substantial evidence. Conclusions of law were reviewed de novo and had to be supported by the factual findings. The Bar bore the burden of proving misconduct by a clear preponderance of the evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jeffrey G. Poole v. Washington State Bar Association

TOPICS

trust administration

trustee duties

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PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

trust-account administration

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QUESTIONS PRESENTED

1. Whether Poole violated RPC 3.4(b) and RPC 8.4(c) by creating and submitting to opposing counsel an invoice prepared in October 2001 but dated May 28, 2001.
2. Whether depositing the \$27,675.35 BFC payment into Poole's general account rather than the firm's trust account violated RPC 1.14(a)(2) when Matson agreed that the payment would be applied to legal fees.
3. Whether Poole violated RPC 1.14(b)(3) by failing to maintain complete records and render an accurate account of the \$27,675.35 BFC payment.
4. Whether the Bar proved its charge that Poole violated RPC 1.14(b)(4) by failing to pay Matson \$7,675.35 of the BFC judgment until December 2001.
5. What sanction was appropriate for the proven misconduct and aggravating factors.

HOLDINGS

1. Poole violated RPC 3.4(b) and RPC 8.4(c) by creating an invoice in October 2001, dating it May 28, 2001, and providing it to opposing counsel without explanation in an effort to mislead counsel and Matson.
2. Poole did not violate RPC 1.14(a)(2) by depositing the \$27,675.35 BFC payment into the firm's general account rather than its trust account because Matson agreed that the payment would be applied to Poole's legal fees.
3. Poole violated RPC 1.14(b)(3) by failing for approximately eight to ten months to maintain complete records of the \$27,675.35 payment and to provide Matson with an accurate account or invoice reflecting its application.
4. The Bar failed to prove count 6 as charged under RPC 1.14(b)(4) because the \$7,675.35 settlement amount was not money withheld from Matson's BFC judgment, as alleged in the formal complaint.
5. A six-month suspension followed by two years of probation and periodic trust-account audits was appropriate for the proven misconduct.

KEY QUOTATIONS

"We thus reject Poole's rationalizations as insufficient and affirm the Board's conclusion that Poole violated RPC 3.4(b) and 8.4(c) by creating an invoice in October 2001, dating it May 28, 2001, and providing it to an opposing counsel, in this case counsel for a former client." (156 Wash. 2d at 205)

"As such, we affirm the Board's conclusion that Poole violated RPC 1.14(b)(3) by failing to properly account for the \$27,675.35 BFC judgment award when, for a period of 10 months, he failed to '[m]aintain complete

records of all funds ... of a client coming into [his] possession' and failed to even once 'render [an] appropriate account[] to his ... client regarding them.'" (156 Wash. 2d at 209)

"We thus reinstate the hearing officer's recommended sanction and order Poole suspended for six months followed by two years of probation and periodic audits of his trust account." (156 Wash. 2d at 216)

FACTUAL BACKGROUND

Poole represented construction equipment operator Joseph Matson in a claim against BFC Frontier, Inc. A \$27,675.35 payment from BFC was deposited into Poole's general account pursuant to the parties' agreement that it would be applied to Matson's legal fees, but Poole's billing records failed to reflect the credit and later included an erroneous \$20,000 credit. During a later lien dispute, Poole created an invoice in October 2001 bearing a May 28, 2001 date and sent it to Matson's attorney, while also failing for months to maintain an accurate account of the BFC payment.

PROCEDURAL HISTORY

The Bar filed a formal complaint seeking disbarment. A hearing officer found four of six charged counts proved and recommended a six-month suspension followed by two years of probation and periodic trust-account audits. The Disciplinary Board affirmed the findings, added aggravating factors, and increased the suspension to one year. The Washington Supreme Court affirmed two counts, reversed two counts, reversed the prior-discipline aggravating factor, and reinstated the six-month suspension with probation and audits.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceeding Against Carmick, 146 Wash. 2d 582, 48 P.3d 311 (2002)
- In re Disciplinary Proceeding Against Guarnero, 152 Wash. 2d 51, 93 P.3d 166 (2004)
- In re Disciplinary Proceeding Against Huddleston, 137 Wash. 2d 560, 974 P.2d 325 (1999)
- In re Disciplinary Proceeding Against Miller, 95 Wash. 2d 453, 625 P.2d 701 (1981)
- In re Disciplinary Proceeding Against Allotta, 109 Wash. 2d 787, 748 P.2d 628 (1988)
- In re Disciplinary Proceeding Against McLeod, 104 Wash. 2d 859, 711 P.2d 310 (1985)
- In re Disciplinary Proceeding Against Romero, 152 Wash. 2d 124, 94 P.3d 939 (2004)
- In re Disciplinary Proceeding Against Dynan, 152 Wash. 2d 601, 98 P.3d 444 (2004)
- In re Disciplinary Proceeding Against Dann, 136 Wash. 2d 67, 960 P.2d 416 (1998)
- In re Disciplinary Proceeding Against Boelter, 139 Wash. 2d 81, 985 P.2d 328 (1999)
- In re Disciplinary Proceeding Against Kagele, 149 Wash. 2d 793, 72 P.3d 1067 (2003)
- In re Disciplinary Proceeding Against Cohen, 150 Wash. 2d 744, 82 P.3d 224 (2004)
- In re Disciplinary Proceeding Against Kuvvara, 149 Wash. 2d 237, 66 P.3d 1057 (2003)
- In re Disciplinary Proceeding Against Brothers, 149 Wash. 2d 575, 70 P.3d 940 (2003)

- In re Disciplinary Proceeding Against Lopez, 153 Wash. 2d 570, 106 P.3d 221 (2005)
- In re Disciplinary Proceeding Against Whitt, 149 Wash. 2d 707, 72 P.3d 173 (2003)
- In re Disciplinary Proceeding Against Halverson, 140 Wash. 2d 475, 998 P.2d 833 (2000)
- In re Disciplinary Proceeding Against Noble, 100 Wash. 2d 88, 667 P.2d 608 (1983)
- In re Disciplinary Proceeding Against Schwimmer, 153 Wash. 2d 752, 108 P.3d 761 (2005)
- In re Disciplinary Proceeding Against Egger, 152 Wash. 2d 393, 98 P.3d 477 (2004)

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