

SUPREME COURT OF KENTUCKY

Michael A. Valenti v. Kentucky Bar Association

2016-SC-000109-KB · No. 2016-SC-000109-KB · Decided May 18, 2016

SUMMARY

The Kentucky Supreme Court approved an agreed resolution disciplining Michael A. Valenti for commingling personal and client funds in his firm's IOLTA account and misusing client funds. The Court imposed a thirty-day suspension, fully probated for one year subject to specified conditions, and ordered Valenti to pay the proceeding's costs.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	All sitting
JURISDICTION	Kentucky
DECIDED	May 18, 2016
DOCKET	2016-SC-000109-KB
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding submitted to the Supreme Court of Kentucky under an agreed resolution pursuant to SCR 3.480(2).
STANDARD OF REVIEW	The Court reviewed the record, applicable standards, and relevant authorities to determine whether the agreed discipline was adequate.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Michael A. Valenti v. Kentucky Bar Association

TOPICS

administrative law

appellate procedure

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether Valenti violated SCR 3.130-1.15(a) by commingling personal funds with client funds and misusing funds held in an IOLTA escrow account.
2. Whether the agreed discipline of a thirty-day suspension probated for one year, subject to specified conditions, was adequate.

HOLDINGS

1. Valenti was guilty of the charge and violated SCR 3.130-1.15(a) by commingling personal funds with client funds and misusing funds held in the firm's IOLTA escrow account.
2. A thirty-day suspension from the practice of law, entirely probated for one year subject to the stated conditions, was adequate discipline for Valenti's violation.

KEY QUOTATIONS

"A lawyer shall hold property of clients or third persons that is in a lawyer's possession in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client, third person, or both in the event of a claim by each to the property. The separate account referred to in the preceding sentence shall be maintained in a bank which has agreed to notify the Kentucky Bar Association in the event that any overdraft occurs in the account. Other property shall be identified and safeguarded."
(at 1)

FACTUAL BACKGROUND

Over approximately two and one-half years, Valenti commingled personal funds with client funds in his firm's IOLTA escrow account and misused client funds through six disbursements ranging from \$1,544.40 to \$10,440.00. He also authorized deposits of personal funds totaling \$182,585.81 into the account, including \$173,678.00 obtained through the firm's profit-sharing plan, and used those funds to pay personal expenses. Before self-reporting the violation, Valenti restored all client funds.

PROCEDURAL HISTORY

Valenti self-reported his professional-ethics violation to the Kentucky Bar Association. Valenti and the KBA agreed that he should receive a thirty-day suspension probated for one year, subject to specified conditions, and jointly asked the Supreme Court of Kentucky to impose that discipline. After reviewing the record, applicable standards, and relevant authorities, the Court accepted the proposed resolution and entered the requested discipline.

DISPOSITION

other

OPINION

PER CURIAM.

TO BE PUBLISHED \$uprrmr &turf 2016-SC-000109-KB TcfirMitr U a 1.1\Y AT 1.E5 -0 -IL= C..sxMaAt-o-utNA,^0..c. MICHAEL A. VALENTI MOVANT V. IN SUPREME COURT KENTUCKY BAR ASSOCIATION RESPONDENT OPINION AND ORDER Michael A. Valenti commingled personal funds with client funds in his firm's IOLTA escrow account. Valenti self-reported this professional-ethics violation to the Kentucky Bar Association, and the parties have reached an agreed resolution.

Over a two-and-one-half-year period, Valenti misused client funds via six separate disbursements, ranging in amounts from \$1,544.40 to \$10,440.00. In addition, Valenti authorized checks representing his own personal funds totaling \$182,585.81 to be deposited into the IOLTA escrow account of his firm, Valenti Hanley & Robinson, PLLC. This IOLTA escrow account also contained client funds.

Of these deposited funds, \$173,678.00 were obtained through Valenti's firm's profit-sharing plan. Valenti used the funds to pay personal expenses. Of note, before Valenti self-reported, all client funds were restored. KBA Member No. 81989, bar roster address, One Riverfront Plaza, Suite 1950, 1 401 W. Main Street, Louisville, Kentucky 40202. Valenti was admitted to the practice of law on April 24, 1987.

1 Valenti admits his conduct violated Kentucky Supreme Court Rule (SCR) 3.130- 1.5(a), which provides: "A lawyer shall hold property of clients or third persons that is in a lawyer's possession in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client, third person, or both in the event of a claim by each to the property.

The separate account referred to in the preceding sentence shall be maintained in a bank which has agreed to notify the Kentucky Bar Association in the event that any overdraft occurs in the account. Other property shall be identified and safeguarded."

Under SCR 3.480(2), Valenti and the KBA agreed to the imposition of discipline and now ask this Court to impose upon him a suspension from the practice of law for thirty days, to be probated for a one-year period. The terms of the probation require Valenti to attend, at his own expense, the next scheduled Ethics and Professionalism Enhancement Program (EPEP) offered by the Office of Bar Counsel (OBC) within twelve months following the entry of this Opinion and Order.

Valenti will not be allowed to apply for CLE credit of any kind for this program and must furnish a release and waiver to the OBC to allow the OBC to verify he has not reported any such hours to the CLE Commission. In addition, Valenti must satisfy all CLE requirements and timely pay his KBA membership dues. And Valenti will pay the costs of these proceedings.

In the event Valenti fails to comply with any of the terms of discipline stated here, upon motion of the OBC, this Court may impose the entire thirty- day suspension. After reviewing the record, the standards, and other relevant authorities, this Court concludes that the discipline proposed by

Valenti is adequate. 2 Thus, the Court ORDERS: 1) Michael A. Valenti, KBA Member No. 81981, is guilty of the charge alleged in KBA File No. 23365; 2) Valenti will be suspended from the practice of law for a period of thirty days for violating SCR 3.130-1.15(a); 3) The entirety of Valenti's suspension will be probated for one year, subject to the conditions set forth here; 4) If Valenti fails to comply with any of the terms of discipline as set forth here, upon the OBC's motion, the Court will impose the thirty- day suspension; 5) In accordance with SCR 3.370, Valenti is directed to pay \$57.10, the cost associated with this proceeding, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur. ENTERED: May 5, 2016. 3