

## SUPREME COURT OF WISCONSIN

# In the Matter of Disciplinary Proceedings Against George H. Losby

743 N.W.2d 819 (2008) · No. 2007AP396-D · Decided January 29, 2008

### SUMMARY

The Wisconsin Supreme Court reviewed a disciplinary proceeding involving attorney George H. Losby's handling of three probate estates. The court adopted the referee's findings that Losby engaged in misconduct including lack of diligence, false statements to a tribunal, dishonesty, misappropriation of estate funds, and failure to cooperate with the Office of Lawyer Regulation. The court suspended his Wisconsin law license for 18 months, ordered restitution and payment of \$5,763.31 in costs, and imposed related reinstatement and suspension obligations.

### CASE DETAILS

|                       |                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Wisconsin                                                                                                                                                                                               |
| WRITING FOR THE COURT | Per Curiam                                                                                                                                                                                                               |
| JURISDICTION          | Wisconsin                                                                                                                                                                                                                |
| DECIDED               | January 29, 2008                                                                                                                                                                                                         |
| DOCKET                | 2007AP396-D                                                                                                                                                                                                              |
| DISPOSITION           | other                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | The Wisconsin Supreme Court reviewed a referee's uncontested findings and recommendation in an attorney disciplinary proceeding. No appeal was filed.                                                                    |
| STANDARD OF REVIEW    | The court upholds the referee's findings of fact unless clearly erroneous and independently reviews the referee's legal conclusions. The court bears ultimate responsibility for determining the appropriate discipline. |
| PRECEDENTIAL VALUE    | Published Wisconsin Supreme Court disciplinary opinion; precedential as to the stated standards of review and discipline imposed.                                                                                        |
| PARTIES               | Office of Lawyer Regulation v. George H. Losby                                                                                                                                                                           |

### TOPICS

[probate procedure](#)[estate administration](#)[tax penalties](#)[tax](#)

## PRACTICE AREAS

legal ethics

attorney discipline

probate administration

tax compliance

## QUESTIONS PRESENTED

1. Whether the referee's uncontested findings of fact and conclusions of law were supported by the record.
2. Whether Losby's misconduct warranted an 18-month suspension of his Wisconsin law license.
3. Whether restitution and the costs of the disciplinary proceeding should be imposed.

## HOLDINGS

1. The court upheld the referee's findings of fact because they were not clearly erroneous and independently reviewed and adopted the referee's unchallenged legal conclusions.
2. An 18-month suspension of Losby's license to practice law was warranted by the seriousness of his misconduct and was necessary to protect the public and deter similar misconduct.
3. Losby was required to make the restitution identified in the referee's report, including all interest and penalties accrued by the M.S. estate because of delinquent tax filings, and to pay \$5,763.31 in costs.

## KEY QUOTATIONS

*"This court upholds the referee's findings of fact unless clearly erroneous. See In re Disciplinary Proceedings Against Carroll, 2001 WI 130, ¶ 29, 248 Wis. 2d 662, 636 N.W.2d 718. This court independently reviews the referee's legal conclusions."* (822)

*"It is ultimately this court's responsibility to determine the appropriate discipline."* (822)

*"Proper considerations include the seriousness of the misconduct and the need to protect the public, courts and the legal system from repetition of misconduct, to impress upon the attorney the seriousness of the misconduct, and to deter other attorneys from similar misconduct."* (822)

## FACTUAL BACKGROUND

Attorney George H. Losby handled three probate estates and failed to file fiduciary income tax returns, comply with filing deadlines, and conclude probate for lengthy periods. In the M.S. and M.K. estates, he made false or misleading statements in final accounts, improperly took or retained estate funds, and failed to disclose or reimburse tax penalties and interest. He also failed to cooperate fully with the Office of Lawyer Regulation's investigation and mishandled checks in the A.L. estate.

## PROCEDURAL HISTORY

The Office of Lawyer Regulation filed a disciplinary complaint alleging ten counts of misconduct arising from Attorney Losby's handling of three probate estates. After hearings, the referee found the allegations proven and recommended an 18-month license suspension, restitution, and costs. The supreme court independently reviewed the legal conclusions, adopted the referee's findings and conclusions, and imposed the recommended discipline.

## DISPOSITION

other

#### CASES CITED

- In re Disciplinary Proceedings Against Carroll, 2001 WI 130, ¶ 29, 248 Wis. 2d 662, 636 N.W.2d 718
- In re Disciplinary Proceedings Against Reitz, 2005 WI 39, ¶ 74, 279 Wis. 2d 550, 694 N.W.2d 894
- In re Disciplinary Proceedings Against Arthur, 2005 WI 40, ¶ 78, 279 Wis. 2d 583, 694 N.W.2d 910

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