

NORTH DAKOTA SUPREME COURT

Disciplinary Board of the Supreme Court of North Dakota v.
Chinquist

2006 ND 107 (N.D. 2006) · Decided May 16, 2006

SUMMARY

The North Dakota Supreme Court reviewed disciplinary findings against attorney C. Charles Chinquist concerning unreasonable and undocumented fees, mishandling of client funds, an undisclosed financial transaction with a client, and a sexual relationship with a domestic-relations client. The court found clear and convincing violations of North Dakota Rules of Professional Conduct 1.5(a) and (b), 1.7(a), 1.8(a), and 1.15(a) and (f). It increased the recommended sanction to a six-month-and-one-day suspension and ordered payment of \$5,289.45 in disciplinary costs and expenses.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Per Curiam; Gerald W. Vande Walle, C.J.; Zane Anderson, D.J.; Daniel J. Crothers, J.; Dale V. Sandstrom, J.; Carol Ronning Kapsner, J.
JURISDICTION	North Dakota
DECIDED	May 16, 2006
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which Chinquist and disciplinary counsel objected to a hearing panel report finding violations of the North Dakota Rules of Professional Conduct and recommending a 30-day suspension and assessment of costs.
STANDARD OF REVIEW	Disciplinary proceedings are reviewed de novo on the record. The Court gives due weight to the hearing panel's findings, conclusions, and recommendations, but does not act as a mere rubber stamp. Each alleged violation must be proved by clear and convincing evidence.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	C. Charles Chinquist v. Disciplinary Board of the Supreme Court of North Dakota

TOPICS

family law procedure

child custody

visitation

administrative law

family law

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

family law

QUESTIONS PRESENTED

1. Whether clear and convincing evidence established violations of North Dakota Rules of Professional Conduct 1.15(a) and (f) concerning safekeeping client property and maintenance of records.
2. Whether clear and convincing evidence established violations of Rules 1.5(a) and (b) concerning the reasonableness and communication of attorney fees.
3. Whether Chinquist violated Rule 1.8(a) by entering into a financial transaction with a client without advising her to seek independent counsel.
4. Whether Chinquist violated Rule 1.7(a) by engaging in a sexual relationship with a domestic-relations client during the representation.
5. What sanction was appropriate in light of the violations and aggravating and mitigating circumstances.

HOLDINGS

1. Chinquist violated N.D.R. Prof. Conduct 1.15(a) and (f) by accepting client payments without accounting or billing statements, failing to determine what portion of the funds remained unearned, failing to maintain required records, and failing to deposit the payments into a trust account.
2. Chinquist violated N.D.R. Prof. Conduct 1.5(a) and (b) by accepting large sums without documentation or accounting, accepting amounts bearing no apparent relationship to the work performed, and failing to communicate the basis, rate, or amount of fees.
3. Chinquist violated N.D.R. Prof. Conduct 1.8(a) by accepting \$5,000 from the woman for another client's legal fees without advising her to seek independent counsel before consenting to the transaction.
4. A lawyer violates N.D.R. Prof. Conduct 1.7(a) by engaging in a sexual relationship with a client during representation in a domestic-relations matter because the lawyer's own interests create an inherent conflict with the client's interests, even absent proof of actual impairment and even though the rules did not then contain an express prohibition.
5. A six-month-and-one-day suspension and assessment of the full disciplinary costs were warranted by the combination of client-fund violations, fee violations, the undisclosed financial transaction, and the conflict created by the sexual relationship, together with aggravating and mitigating factors.

KEY QUOTATIONS

“We review disciplinary proceedings *de novo* on the record.” (§ 7)

“By engaging in a sexual relationship with his client during the course of the representation, Chinquist placed his own interests above those of his client.” (§ 19)

“Under these circumstances, we order that Chinquist be suspended from the practice of law for six (6) months and one (1) day beginning July 1, 2006, and that he pay the full costs and expenses of the disciplinary proceeding in the amount of \$5,289.45” (¶ 24)

FACTUAL BACKGROUND

Chinquist represented a woman in custody and related domestic-relations matters but did not execute a written fee agreement, provide billing statements, maintain adequate records, or deposit client funds into a trust account. The woman paid him approximately \$13,500 to \$15,000 in cash and money orders, including \$5,000 applied to another client's criminal matter. While representing her, Chinquist engaged in a sexual relationship with her, despite knowing of her emotional and substance-abuse problems and her vulnerability in the custody case.

PROCEDURAL HISTORY

After a disciplinary hearing, the hearing panel found violations involving fees, client funds, and a financial transaction with a client and recommended a 30-day suspension plus costs. The North Dakota Supreme Court reviewed the proceeding de novo on the record, found additional and more serious violations, and imposed a six-month-and-one-day suspension with costs.

DISPOSITION

other

CASES CITED

- In re Reciprocal Discipline of Chinquist, 2004 ND 87, 679 N.W.2d 257
- Disciplinary Bd. v. Giese, 2006 ND 13, 709 N.W.2d 717
- Disciplinary Bd. v. Ward, 2005 ND 144, 701 N.W.2d 873
- Disciplinary Bd. v. Edin, 2005 ND 109, 697 N.W.2d 727
- Disciplinary Bd. v. McKechnie, 2003 ND 170, 670 N.W.2d 864
- Disciplinary Bd. v. Edwardson, 2002 ND 106, 647 N.W.2d 126
- People v. Zeilinger, 814 P.2d 808 (Colo. 1991)
- Matter of Lewis, 415 S.E.2d 173 (Ga. 1992)
- In re Tsoutsouris, 748 N.E.2d 856 (Ind. 2001)
- Committee on Prof'l Ethics and Conduct v. Hill, 436 N.W.2d 57 (Iowa 1989)
- Matter of Berg, 955 P.2d 1240 (Kan. 1998)
- Bourdon's Case, 565 A.2d 1052 (N.H. 1989)
- Matter of DiPippo, 678 A.2d 454 (R.I. 1996)
- In re Rinella, 677 N.E.2d 909 (Ill. 1997)
- Druckers' Case, 577 A.2d 1198 (N.H. 1990)

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