

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

In the Matter of Philipp Charles Theune

Matter of Theune, 2020 NY Slip Op 00283 (App. Div. 2020) · No. 2019-04769 · Decided January 15, 2020

SUMMARY

The Appellate Division, Second Department imposed reciprocal discipline on Philipp Charles Theune based on his disbarment in Colorado for knowingly converting \$100,000 in client funds and failing to safeguard those funds. The court disbarred him effective immediately and ordered compliance with the rules governing disbarred attorneys.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Per Curiam; Alan D. Scheinkman, P.J.; William F. Mastro, J.; Reinaldo E. Rivera, J.; Mark C. Dillon, J.; Leonard B. Austin, J.
JURISDICTION	New York
DECIDED	January 15, 2020
DOCKET	2019-04769
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding initiated by order to show cause under 22 NYCRR 1240.13 based on disbarment imposed by the Supreme Court of the State of Colorado.
PRECEDENTIAL VALUE	published

TOPICS

appellate procedure

PRACTICE AREAS

legal ethics attorney discipline professional responsibility

QUESTIONS PRESENTED

- Whether reciprocal discipline should be imposed in New York based on the respondent's Colorado disbarment and underlying misconduct.

2. Whether the respondent's knowing misappropriation of \$100,000 in client funds warrants disbarment in New York.

HOLDINGS

1. Reciprocal discipline is warranted based on the findings of the Supreme Court of Colorado.
2. The respondent's misappropriation of \$100,000 in client funds for personal use warrants disbarment.

KEY QUOTATIONS

"We find that reciprocal discipline is warranted based on the findings of the Supreme Court of Colorado."
(*1)

"We conclude that the respondent's misappropriation of \$100,000 in client funds for personal use warrants a disbarment." (*1)

FACTUAL BACKGROUND

Theune represented Ernst Kappeli in litigation arising from a real estate contract. After a Colorado trial court ordered Kappeli to return \$400,000 to the opposing party, Kappeli wired that amount to Theune's trust account for payment. Theune paid only \$300,000 and knowingly converted the remaining \$100,000 for personal use, concealing the conversion for nearly two years. Colorado disciplinary proceedings resulted in default findings, disbarment, and a restitution order; Theune did not respond to New York's reciprocal-discipline order to show cause.

PROCEDURAL HISTORY

The Supreme Court of Colorado disbarred Theune and ordered restitution after finding that he knowingly converted \$100,000 in client funds and failed to participate in the disciplinary proceedings. The New York Appellate Division issued an order to show cause requiring Theune to explain why reciprocal discipline should not be imposed. Theune did not respond, and the Appellate Division imposed disbarment in New York.

DISPOSITION

other