

NEBRASKA SUPREME COURT

State ex rel. Counsel for Discipline of the Nebraska Supreme Court v. Richard H. Hoch

297 Neb. 500 (2017) · No. S-17-588 · Decided August 11, 2017

SUMMARY

The Nebraska Supreme Court accepted Richard H. Hoch's voluntary surrender of his law license after he admitted misapplying client funds held in his trust account to cover office expenses. The court entered an immediate judgment of disbarment and ordered compliance with applicable disciplinary rules and payment of costs and expenses.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Per Curiam; Heavican, C.J.; Wright, J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.
JURISDICTION	Nebraska
DECIDED	August 11, 2017
DOCKET	S-17-588
DISPOSITION	other
PROCEDURAL POSTURE	Original disciplinary action based on respondent's voluntary surrender of his license to practice law; the court considered whether to accept the surrender and enter a judgment of disbarment.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion
PARTIES	State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court v. Richard H. Hoch

TOPICS

remedies costs contempt civil procedure

PRACTICE AREAS

legal ethics and professional responsibility attorney discipline

QUESTIONS PRESENTED

1. Whether the court should accept respondent's voluntary surrender of his license under Neb. Ct. R. § 3-315.
2. Whether respondent should be disbarred and ordered to comply with the requirements governing surrendered licenses and payment of disciplinary costs.

HOLDINGS

1. The court accepted respondent's voluntary surrender because he knowingly admitted or did not contest the suggested allegations and waived all proceedings in connection with them.
2. The court ordered Richard H. Hoch disbarred from the practice of law in Nebraska, effective immediately.
3. Respondent was required to comply forthwith with Neb. Ct. R. § 3-316 and to pay costs and expenses as directed under the cited statutes and disciplinary rules; failure to comply with § 3-316 could subject him to contempt.

KEY QUOTATIONS

“The court accepts respondent’s voluntary surrender of his license, finds that respondent should be disbarred, and hereby orders him disbarred from the practice of law in the State of Nebraska, effective immediately.”
(502)

FACTUAL BACKGROUND

Richard H. Hoch had been admitted to practice law in Nebraska since July 2, 1964. After receiving notice of an overdraft on his trust account, he admitted misapplying client funds held in the account to pay office expenses, in violation of Nebraska's professional-conduct rules. He voluntarily surrendered his license, did not contest the allegations, waived further proceedings, and consented to immediate disbarment.

PROCEDURAL HISTORY

Respondent filed a voluntary surrender of his license and admitted that he had misapplied client trust-account funds to cover office expenses. He waived notice, appearance, and a hearing, and consented to immediate disbarment. The Nebraska Supreme Court accepted the surrender and entered judgment of disbarment.

DISPOSITION

other

OPINION

PER CURIAM.

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Discipline of the Nebraska Supreme Court, relator, v. Richard H. Hoch, respondent. ____ N.W.2d ____ Filed August 11, 2017.

No. S-17-588. Original action. Judgment of disbarment. Heavican, C.J., Wright, Miller-Lerman, Cassel, and Stacy, JJ. Per Curiam. INTRODUCTION This case is before the court on the voluntary surrender of license filed by respondent, Richard H. Hoch, on June 5, 2017.

The court accepts respondent's voluntary surrender of his license and enters a judgment of disbarment. STATEMENT OF FACTS Respondent was admitted to the practice of law in the State of Nebraska on July 2, 1964. On March 3, 2016, respondent filed a voluntary surrender of license to practice law, in which he stated that on August 13, 2016, he received notice from the Counsel for Discipline of an overdraft on his trust account.

He admits that he misapplied client funds being held in his trust account and used them to cover office expenses, in violation of Neb. Ct. R. of Prof. Cond. § 3-501.15. Respondent stated that he freely, knowingly, and voluntarily chooses not to contest the truth of the suggested allegations made - 501 - Nebraska Supreme Court Advance Sheets 297 Nebraska Reports STATE EX REL.

COUNSEL FOR DIS. v. HOCH Cite as 297 Neb. 500 against him. He also stated that he freely, knowingly, and voluntarily surrenders his privilege to practice law in the State of Nebraska; waives his right to notice, appearance, or hearing prior to the entry of an order of disbarment; and consents to the entry of an immediate order of disbarment. ANALYSIS Neb. Ct.

R. § 3-315 of the disciplinary rules provides in pertinent part: (A) Once a Grievance, a Complaint, or a Formal Charge has been filed, suggested, or indicated against a member, the member may voluntarily surrender his or her license.

(1) The voluntary surrender of license shall state in writing that the member knowingly admits or knowingly does not challenge or contest the truth of the suggested or indicated Grievance, Complaint, or Formal Charge and waives all proceedings against him or her in connection therewith. Pursuant to § 3-315 of the disciplinary rules, we find that respondent has voluntarily surrendered his license to practice law and knowingly does not challenge or contest the truth of the suggested allegations made against him.

Further, respondent has waived all proceedings against him in connection therewith. We further find that respondent has consented to the entry of an order of disbarment. CONCLUSION Upon due consideration of the court file in this matter, the court finds that respondent has stated that he freely, knowingly, and voluntarily admits that he does not contest the suggested allegations being made against him.

The court accepts respondent's voluntary surrender of his license to practice law, finds that respondent should be disbarred, and hereby orders him disbarred from the practice of law in the

State of - 502 - Nebraska Supreme Court Advance Sheets 297 Nebraska Reports STATE EX REL. COUNSEL FOR DIS. v. HOCH Cite as 297 Neb. 500 Nebraska, effective immediately.

Respondent shall forthwith comply with all terms of Neb. Ct. R. § 3-316 (rev. 2014) of the disciplinary rules, and upon failure to do so, he shall be subject to punishment for contempt of this court. Accordingly, respondent is directed to pay costs and expenses in accordance with Neb. Rev. Stat. §§ 7-114 and 7-115 (Reissue 2012) and Neb. Ct. R. §§ 3-310(P) (rev.

2014) and 3-323 of the disciplinary rules within 60 days after an order imposing costs and expenses, if any, is entered by the court. Judgment of disbarment. Kelch and Funke, JJ., not participating.