

SUPREME COURT OF GEORGIA

In the Matter of Christine M. Livingston

285 Ga. 173, 674 S.E.2d 878 (2009) · No. S09Y0281 · Decided March 9, 2009

SUMMARY

The Supreme Court of Georgia imposed a one-year suspension on Christine M. Livingston for abandoning a residential real estate closing, failing to file necessary deed documents, and failing to respond to disciplinary proceedings. The court found violations of Georgia Rules of Professional Conduct 1.3, 1.4, and 9.3; three justices dissented and would have imposed disbarment.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	All the Justices
JURISDICTION	Georgia
DECIDED	March 9, 2009
DOCKET	S09Y0281
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the respondent failed to file a Notice of Rejection to the Notice of Discipline and was found in default.
STANDARD OF REVIEW	The court reviewed the disciplinary record and admitted facts to determine the appropriate sanction.
PRECEDENTIAL VALUE	Published opinion
PARTIES	State Bar of Georgia

TOPICS

real estate

mortgages

deeds

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

real estate transactions

mortgage closing

QUESTIONS PRESENTED

1. Whether Livingston's failure to reject the Notice of Discipline resulted in default and waiver of an evidentiary hearing.
2. Whether the admitted facts established violations of Rules 1.3, 1.4, and 9.3 of the Georgia Rules of Professional Conduct.
3. What disciplinary sanction was appropriate for the established violations.

HOLDINGS

1. An attorney who fails to file a Notice of Rejection to the Notice of Discipline after proper service is in default and waives the right to an evidentiary hearing.
2. The admitted facts established that Livingston violated Rules 1.3, 1.4, and 9.3 of the Georgia Rules of Professional Conduct, as incorporated in Bar Rule 4-102(d).
3. A one-year suspension from the practice of law was the appropriate sanction for Livingston's violations.

KEY QUOTATIONS

“Having reviewed the record we agree that a one-year suspension is the appropriate sanction in this case.”
(674 S.E.2d at 879)

“Therefore, Livingston is in default, has waived her rights to an evidentiary hearing, and is subject to such discipline and further proceedings as may be determined by this Court.” (674 S.E.2d at 878)

FACTUAL BACKGROUND

Livingston represented a mortgage company as closing attorney in a 2005 residential real-estate closing. She failed to file the deed filings necessary to complete the closing and abandoned the legal matter without cause, to her client's detriment. She also failed to respond after being served by publication with a Notice of Investigation, which the Investigative Panel treated as an aggravating factor.

PROCEDURAL HISTORY

Christine M. Livingston did not file a Notice of Rejection after proper service under Bar Rule 4-203.1(b)(3)(i), thereby waiving her right to an evidentiary hearing. The Supreme Court of Georgia reviewed the admitted facts and imposed a one-year suspension from the practice of law.

DISPOSITION

other

OPINION

PER CURIAM.

674 S.E.2d 878 (2009) In the Matter of Christine M. LIVINGSTON. No. S09Y0281. Supreme Court of Georgia. March 9, 2009. William P. Smith III, General Counsel State Bar, Jenny K.

Mittelman, Asst. General Counsel State Bar, Atlanta, for State Bar of Georgia. PER CURIAM.

In this disciplinary matter Christine M. Livingston failed to file a Notice of Rejection to the Notice of Discipline, after being properly served under Bar Rule 4-203.1(b)(3)(i), of the Georgia Rules of Professional Conduct.

Therefore, Livingston is in default, has waived her rights to an evidentiary hearing, *879 and is subject to such discipline and further proceedings as may be determined by this Court. See Bar Rule 4-208.1(b). The admitted facts show that Livingston was the closing attorney representing a mortgage company in a 2005 residential real estate closing; that she failed to file the deed filings necessary to complete the closing; that she abandoned the legal matter the mortgage company entrusted to her without cause, and to her client's detriment; and she was served by publication with a Notice of Investigation in this matter, but did not respond, which the Investigative Panel considered an aggravating factor.

Based on these admitted facts, Livingston has violated Rules 1.3, 1.4, and 9.3, all of the Georgia Rules of Professional Conduct found in Bar Rule 4-102(d). The maximum sanction for a violation of Rules 1.4 and 9.3 is a public reprimand and the maximum sanction for a violation of Rule 1.3 is disbarment.

Having reviewed the record we agree that a one-year suspension is the appropriate sanction in this case. It is hereby ordered that the name of Christine M. Livingston be suspended from the practice of law in the State of Georgia for one year from the date of this order. Livingston is reminded of her duties pursuant to Bar Rule 4-219(c). One-year suspension.

All the Justices concur, except SEARS, C.J., HUNSTEIN, P.J., and THOMPSON, J., who dissent. SEARS, Chief Justice, dissenting. Livingston abandoned this case, causing injury to her client. She was served by publication with the State Bar's Notice of Investigation but has not deigned to file a response.

The maximum sanction for her violations of the disciplinary rules is disbarment, and Livingston should be disbarred. Accordingly, I dissent. I am authorized to state that Presiding Justice Hunstein and Justice Thompson join in this dissent.

PER CURIAM.

Per curiam. In this disciplinary matter Christine M. Livingston failed to file a Notice of Rejection to the Notice of Discipline, after being properly served under Bar Rule 4-203.1 (b) (3) (i), of the Georgia Rules of *174Professional Conduct.

Therefore, Livingston is in default, has waived her rights to an evidentiary hearing, and is subject to such discipline and further proceedings as may be determined by this Court. See Bar Rule 4-

208.1 (b). Decided March 9, 2009. William P. Smith III, General Counsel State Bar, Jenny K. Mittelman, Assistant General Counsel State Bar, for State Bar of Georgia.

The admitted facts show that Livingston was the closing attorney representing a mortgage company in a 2005 residential real estate closing; that she failed to file the deed filings necessary to complete the closing; that she abandoned the legal matter the mortgage company entrusted to her without cause, and to her client's detriment; and she was served by publication with a Notice of Investigation in this matter, but did not respond, which the Investigative Panel considered an aggravating factor.

Based on these admitted facts, Livingston has violated Rules 1.3, 1.4, and 9.3, all of the Georgia Rules of Professional Conduct found in Bar Rule 4-102 (d). The maximum sanction for a violation of Rules 1.4 and 9.3 is a public reprimand and the maximum sanction for a violation of Rule 1.3 is disbarment.

Having reviewed the record we agree that a one-year suspension is the appropriate sanction in this case. It is hereby ordered that the name of Christine M. Livingston be suspended from the practice of law in the State of Georgia for one year from the date of this order. Livingston is reminded of her duties pursuant to Bar Rule 4-219 (c). One-year suspension.

All the Justices concur, except Sears, C. J., Hunstein, P. J., and Thompson, J., who dissent.