

SUPREME COURT OF SOUTH CAROLINA

In the Matter of William Joseph Cutchin

412 S.C. 144 (2015) · No. Appellate Case No. 2014-002498 · Decided April 22, 2015

SUMMARY

The South Carolina Supreme Court disbarred William Joseph Cutchin for failing to perform legal services, abandoning clients, misappropriating client funds, mishandling estate and trust matters, and failing to cooperate with disciplinary proceedings. The court ordered restitution, payment of proceeding costs, completion of specified ethics programs before readmission, and compliance with client-protection requirements.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Justice Pleicones; Justice Beatty; Justice Kittredge; Justice Hearn
JURISDICTION	South Carolina
DECIDED	April 22, 2015
DOCKET	Appellate Case No. 2014-002498
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding initiated by formal charges filed by the Office of Disciplinary Counsel. The Commission on Lawyer Conduct panel deemed the factual allegations admitted after Respondent failed to appear, recommended disbarment, and the Supreme Court reviewed and imposed discipline.
STANDARD OF REVIEW	The Supreme Court exercises its own authority to discipline attorneys and may draw its own conclusions and make its own findings of fact, while giving significant respect and consideration to the unanimous findings and conclusions of the disciplinary panel.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court disciplinary opinion
PARTIES	Office of Disciplinary Counsel v. William Joseph Cutchin

TOPICS

estate planning probate trusts remedies

PRACTICE AREAS

legal ethics and attorney discipline

misappropriation of client funds

probate and estate planning representation

trust administration

professional sanctions and restitution

QUESTIONS PRESENTED

1. Whether Respondent violated the South Carolina Rules of Professional Conduct, lawyer's oath, and financial-recordkeeping requirements through neglect, failure to communicate, unreasonable fees, client-fund misappropriation, abandonment of clients, dishonesty, and related misconduct.
2. Whether disbarment was the appropriate sanction for Respondent's multiple violations, misappropriation of client funds, abandonment of his practice, failure to cooperate, and failure to participate meaningfully in the disciplinary proceedings.
3. What restitution, costs, educational requirements, and readmission conditions should be imposed.

HOLDINGS

1. Respondent violated Rules 1.1, 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, 1.17, 2.1, 3.2, 5.3, 8.1(b), 8.4(b), 8.4(d), and 8.4(e), Rule 402(k)(3), and Rule 417, SCACR, by failing to perform promised legal services, abandoning clients, misappropriating client funds, engaging in dishonesty, and failing to cooperate with disciplinary authorities.
2. Disbarment was the appropriate sanction because Respondent committed multiple acts of serious misconduct, including misappropriation of client funds, abandoned his practice, failed to cooperate with the Attorney to Protect Client Interests, and demonstrated disinterest in continuing to practice law.

KEY QUOTATIONS

“the primary purpose of disbarment . . . is the removal of an unfit person from the profession for the protection of the courts and the public, not punishment of the offending attorney.”

“neglecting to participate [in a disciplinary proceeding] is entitled to substantial weight in determining the sanction.”

FACTUAL BACKGROUND

Cutchin repeatedly accepted fees for wills, trusts, probate, estate-planning, and related legal services but failed to perform the promised work, failed to return client documents, and abandoned clients without notice or forwarding information after closing his practice and moving out of state. In one matter, he used signed blank trust-account checks to transfer \$12,500 to his operating account, of which \$9,118.76 was misappropriated. He also failed to cooperate with disciplinary authorities and the Attorney to Protect Client Interests.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges on November 8, 2013, and Respondent filed an answer. Respondent failed to appear at the Commission on Lawyer Conduct panel hearing and at oral argument before the Supreme Court; under Rule 24(b), RLDE, the factual allegations were deemed admitted. The panel

recommended disbarment, and the Supreme Court agreed, ordering disbarment, restitution, costs, and specified conditions for readmission.

DISPOSITION

other

CASES CITED

- In the Matter of Thompson, 343 S.C. 1, 539 S.E.2d 396 (2000)
- In the Matter of Pennington, 393 S.C. 300, 713 S.E.2d 261 (2011)
- In the Matter of Burr, 267 S.C. 419, 228 S.E.2d 678 (1976)
- In the Matter of Trexler, 350 S.C. 483, 567 S.E.2d 470 (2002)
- In the Matter of Craig, 344 S.C. 646, 545 S.E.2d 823 (2001)
- In the Matter of Hall, 333 S.C. 247, 509 S.E.2d 266 (1998)
- In the Matter of Sifly, 279 S.C. 113, 302 S.E.2d 858 (1983)