

SUPREME COURT OF GEORGIA

In the Matter of William F. Heitmann III

297 Ga. 280 (2015) · No. S15Y0968 · Decided June 1, 2015

SUMMARY

The Supreme Court of Georgia accepted William F. Heitmann III's petition for voluntary discipline after he admitted violating Georgia Rule of Professional Conduct 5.3 by failing to ensure that an independent contractor complied with restrictions on unsolicited client contacts. The Court imposed a public reprimand, noting mitigating factors including the absence of prior discipline, cooperation, lack of dishonest motive, and remedial steps.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Georgia
DECIDED	June 1, 2015
DOCKET	S15Y0968
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding on Heitmann's petition for voluntary discipline.
PRECEDENTIAL VALUE	Published disciplinary decision
PARTIES	William F. Heitmann III v. State Bar of Georgia

TOPICS

remedies

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

- Whether the Court should accept Heitmann's petition for voluntary discipline after his admission that he violated Georgia Rule of Professional Conduct 5.3.
- Whether a public reprimand was an appropriate sanction for the admitted violation.

HOLDINGS

1. The Court accepted Heitmann's petition for voluntary discipline based on his admitted violation of Georgia Rule of Professional Conduct 5.3.
2. A public reprimand was an appropriate sanction for Heitmann's violation of Rule 5.3, and the Court ordered that he receive one.

FACTUAL BACKGROUND

Without Heitmann's prior knowledge or consent, an independent contractor employed by his law office made unsolicited contacts with three individuals who had recently been involved in automobile accidents. Two individuals initially agreed to representation and later terminated it, while the third did not retain Heitmann. After learning of the conduct during the grievance process, Heitmann terminated the contractor, hired a more experienced investigator, and explained the applicable Bar rules to that investigator.

PROCEDURAL HISTORY

Heitmann petitioned the Supreme Court of Georgia for voluntary discipline, admitting that he violated Georgia Rule of Professional Conduct 5.3. The State Bar responded that accepting the petition would serve the public interest, and the Supreme Court accepted the petition and imposed a public reprimand.

DISPOSITION

other

OPINION

PER CURIAM.

297 Ga. 280 FINAL COPY S15Y0968. IN THE MATTER OF WILLIAM F. HEITMANN III. PER CURIAM. This matter is before the Court on the petition of attorney William F. Heitmann III (State Bar No. 343903) for voluntary discipline.

In his petition, Heitmann admits that he violated Georgia Rule of Professional Conduct 5.3, and although the maximum penalty for such a violation is disbarment, he requests a public reprimand as discipline in his case.

The State Bar has responded that acceptance of the petition would serve the public interest. We agree. Heitmann has been a member of the State Bar since 2000, and according to his petition, his practice mostly concerns the representation of personal injury plaintiffs. He admits that, without his prior knowledge or consent, an independent contractor employed by his law office contacted three individuals who had just been involved in automobile accidents about Heitmann representing them.

These contacts were unsolicited, none of the prospective clients having reached out to Heitmann before his contractor contacted them. In each instance, the contractor met with the prospective client soon after the initial contact.

In two instances, the prospective clients agreed to be represented by Heitmann, only later to terminate the representation. In the third instance, the prospective client did not retain Heitmann. According to Heitmann, he only became aware of the facts surrounding these contacts during the grievance process. He determined that his contractor likely obtained the names and telephone numbers of the prospective clients from a doctor, although he claims to have no prior or specific knowledge of that fact.

Upon learning of these improper contacts, Heitmann terminated the contractor and severed any further relationship with him. Heitmann later hired a more experienced investigator and personally explained the relevant Bar rules to that investigator, stressing specifically that no potential client can be contacted who has not sought advice regarding employment of a lawyer.

Heitmann admits that he violated Rule 5.3 by failing to take reasonable efforts to ensure that the individual who worked for him conducted himself in accordance with the prohibition imposed on Heitmann by Rule 7.3 (d).

In mitigation, Heitmann notes that he has no prior disciplinary history, that he has cooperated in these proceedings, that he had no dishonest or selfish motive, and that he understands the important purpose of Rule 7.3 (d) to protect the public and its perception of the legal profession.

In addition, he states that he is deeply remorseful that his conduct resulted in acts proscribed by Rule 7.3 (d). Based on the above, Heitmann requests a public reprimand as discipline. The State Bar has responded, noting in aggravation that Heitmann has significant experience in the practice of law, but stating that acceptance of his petition nevertheless would serve the public interest.

Having reviewed the petition and response, we agree that imposition of a public reprimand is an appropriate sanction in this matter, and we therefore accept the petition for voluntary discipline. Accordingly, the Court hereby orders that William F. Heitmann III receive a public reprimand in accordance with Bar Rules 4-102 (b) (3) and 4-220 (c) for his violations of Rule 5.3.

Petition for voluntary discipline accepted. Public reprimand. All the Justices concur. Decided June 1, 2015. Public reprimand. Paula J. Frederick, General Counsel State Bar, William J. Cobb, Assistant General Counsel State Bar, for State Bar of Georgia. 3