

SUPREME COURT OF KANSAS

In re Weaver

294 Kan. 751 (2012) · Decided July 13, 2012

SUMMARY

The Kansas Supreme Court disciplinary proceeding concerns attorney Tracy D. Weaver's operation of a nationwide mortgage loan-modification business. The hearing panel found violations involving diligence, client communication and property, unauthorized practice of law, misrepresentation, supervision of nonlawyers, fee handling, and related professional-conduct rules.

CASE DETAILS

COURT	Supreme Court of Kansas
JURISDICTION	Kansas
DECIDED	July 13, 2012
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding brought by the Office of the Disciplinary Administrator. After a hearing, a panel of the Kansas Board for Discipline of Attorneys found multiple violations of the Kansas Rules of Professional Conduct and recommended disbarment. The Kansas Supreme Court reviewed the matter and imposed disbarment.
STANDARD OF REVIEW	The Supreme Court independently considers the evidence, the disciplinary panel's findings, and the parties' arguments to determine whether KRPC violations occurred and what discipline is appropriate. Attorney misconduct must be established by clear and convincing evidence. Findings to which no exceptions are filed are deemed admitted under Supreme Court Rule 212(c) and (d).
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Office of the Disciplinary Administrator v. Tracy D. Weaver

TOPICS

consumer protection foreclosure mortgages real estate administrative law

PRACTICE AREAS

legal ethics and attorney discipline

professional responsibility

consumer protection

mortgage loan modification

real estate regulation

QUESTIONS PRESENTED

1. Whether the disciplinary panel's factual findings and conclusions that Weaver violated KRPC 1.3, 1.4(a), 1.15(a), 1.16(d), 4.1(a), 5.3, 5.4, 5.5(b), 7.1, 8.1(b), and 8.4(c) and (g) were supported by the record.
2. Whether disbarment was the appropriate discipline for Weaver's misconduct.

HOLDINGS

1. The disciplinary panel's findings of fact were deemed admitted because Weaver filed no exceptions, and the findings were supported by clear and convincing evidence. The findings supported the panel's conclusions that Weaver violated the cited Kansas Rules of Professional Conduct.
2. Disbarment was the appropriate sanction for Weaver's intentional and dishonest misconduct involving vulnerable mortgage borrowers, client funds, unauthorized practice, fee sharing, inadequate representation, and failure to provide promised refunds.

FACTUAL BACKGROUND

Tracy Weaver, a Kansas attorney, operated Loss Mitigation Legal Network, a nationwide mortgage-loan-modification business, despite lacking specific loan-modification experience and failing to establish the advertised nationwide attorney network. He collected substantial advance fees, shared fees with nonlawyers, commingled client funds, used nonlawyers and a suspended attorney in client matters, made material misrepresentations, and failed to provide promised services or refunds. After California regulators issued a desist-and-refrain order, Weaver continued operating in ways that violated applicable requirements and ultimately sold the business and transferred client files without client authorization. Numerous clients received little or no assistance and many did not receive refunds.

PROCEDURAL HISTORY

The Disciplinary Administrator filed a formal complaint alleging violations of numerous KRPC provisions. Weaver answered and consented to an amended complaint; he later agreed to temporary suspension. Following a hearing, the disciplinary panel found the violations established and unanimously recommended disbarment. Weaver filed no exceptions to the panel's final report, so the factual findings were deemed admitted. The Supreme Court adopted the panel's findings and conclusions and disbarred Weaver.

DISPOSITION

other

CASES CITED

- In re Foster, 292 Kan. 940, 945, 258 P.3d 375 (2011)
- In re Lober, 288 Kan. 498, 505, 204 P.3d 610 (2009)

- In re Dennis, 286 Kan. 708, 725, 188 P.3d 1 (2008)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/kansas-supreme-court-of-kansas/2012/in-re-weaver-yl43tlb4>