

SUPREME COURT OF OHIO

Stark County Bar Ass'n v. Marosan

119 Ohio St. 3d 113 (Ohio 2008) · Decided August 7, 2008

SUMMARY

The Ohio Supreme Court permanently disbarred Joseph E. Marosan for entering into a self-dealing real estate trust transaction with a client and profiting at the client's expense. The court also found that he failed to cooperate with the disciplinary investigation and failed to answer the formal complaint. The court adopted the board's findings and recommendation, citing his prior disciplinary history, lack of mitigation, and failure to make restitution.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Pfeifer; Lundberg Stratton; O'Connor; O'Donnell; Lanzinger; Cupp
JURISDICTION	Ohio
DECIDED	August 7, 2008
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding arising from a default judgment before the Board of Commissioners on Grievances and Discipline. The Supreme Court of Ohio reviewed the board's findings and sanction recommendation and imposed permanent disbarment.
STANDARD OF REVIEW	The Supreme Court of Ohio reviewed the board's record and report and independently determined whether the charged misconduct occurred and what sanction was appropriate.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Stark County Bar Association v. Joseph E. Marosan

TOPICS

trusts trustee duties breach of trust real estate

PRACTICE AREAS

legal ethics attorney discipline professional responsibility real estate transactions trust law

QUESTIONS PRESENTED

1. Whether Marosan violated the applicable professional-conduct rules by entering into a business transaction with a client while representing the client without full disclosure and consent.
2. Whether Marosan violated the disciplinary rules by failing to cooperate in the investigation and by failing to answer the complaint.
3. Whether permanent disbarment was the appropriate sanction in light of the misconduct, aggravating factors, prior discipline, and absence of mitigation.

HOLDINGS

1. Marosan violated DR 5-104(A) by entering into the 3M Land Trust transaction with Martin while their interests differed and without advising Martin of the risks of the dual representation or obtaining consent after full disclosure.
2. Marosan violated Gov.Bar R. V(4)(G) and Prof.Cond.R. 8.1(b) by ignoring investigative inquiries, failing to respond to the grievance, and failing to answer the formal disciplinary complaint.
3. Permanent disbarment was warranted because Marosan engaged in self-dealing, profited at a client's expense, knowingly failed to cooperate with disciplinary authorities, had twice previously been disciplined, was already suspended, and presented no mitigating evidence.

KEY QUOTATIONS

“Our primary purpose in imposing disciplinary sanctions is not to punish the offender, but to protect the public.” (¶ 17)

“Accordingly, respondent is permanently disbarred from the practice of law in Ohio.” (¶ 18)

FACTUAL BACKGROUND

Marosan represented Vernon R. Martin II while also creating and serving as trustee and attorney for the 3M Land Trust, whose beneficiaries included Marosan, Martin, and another client. Martin supplied more than \$114,000 in capital for Pennsylvania real estate, while Marosan and the other beneficiary received distributions despite contributing no capital and failed to reimburse Martin when the trust agreement required repayment. Marosan also ignored requests for information during the disciplinary investigation and failed to answer the formal complaint.

PROCEDURAL HISTORY

The Stark County Bar Association filed a disciplinary complaint in October 2007. Marosan failed to answer or cooperate in the investigation, and the relator moved for default. A master commissioner made findings and recommended an indefinite suspension; the board adopted the findings but recommended permanent disbarment. The Supreme Court of Ohio adopted the findings and permanently disbarred Marosan.

DISPOSITION

other

CASES CITED

- Stark Cty. Bar Assn. v. Marosan, 106 Ohio St. 3d 430, 2005-Ohio-5412, 835 N.E.2d 718
- Stark Cty. Bar Assn. v. Marosan, 108 Ohio St. 3d 1220, 2006-Ohio-1505, 844 N.E.2d 846
- Cuyahoga Cty. Bar Assn. v. Marosan, 109 Ohio St. 3d 439, 2006-Ohio-2816, 848 N.E.2d 837
- Disciplinary Counsel v. O'Neill, 103 Ohio St. 3d 204, 2004-Ohio-4704, 815 N.E.2d 286, ¶ 53
- Ohio State Bar Assn. v. Weaver, 41 Ohio St. 2d 97, 100, 70 O.O.2d 175, 322 N.E.2d 665 (1975)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/ohio-supreme-court-of-ohio/2008/stark-county-bar-ass-n-v-marosan-z73kym80>