



In the
Indiana Supreme Court

In the Matter of:) Supreme Court Cause No.
Ronald A. SAFRIN,) 29S00-1401-DI-63
Respondent.)

PUBLISHED ORDER APPROVING STATEMENT OF CIRCUMSTANCES
AND CONDITIONAL AGREEMENT FOR DISCIPLINE

Pursuant to Indiana Admission and Discipline Rule 23(11), the Indiana Supreme Court Disciplinary Commission and Respondent have submitted for approval a "Statement of Circumstances and Conditional Agreement for Discipline" stipulating agreed facts and proposed discipline as summarized below:

Stipulated Facts: Count 1. Respondent maintained two attorney/client trust accounts ("Trust Accounts"), neither of which were registered as an Interest on Lawyers Trust Account ("IOLTA"). Respondent did not notify the banks that the Trust Accounts were subject to overdraft reporting to the Commission. On his Attorney Annual Registration Statements from 2008 through 2011, Respondent falsely stated that he was exempt from maintaining an IOLTA.

Over several years, Respondent shared signatory authority for the Trust Accounts with another lawyer, who stole money from the Trust Accounts. This resulted in overdrafts, which were not reported to the Commission because the accounts were not registered as IOLTA accounts. By failing to properly register the Trust Accounts as IOLTA accounts, Respondent enabled the other lawyer to steal client funds from those accounts.¹

Count 2. On at least one occasion, Respondent entered into a written fee agreement with a client providing: "We [i.e., the firm] acknowledge receipt of an initial non-refundable retainer fee \$_____." At a deposition conducted by the Commission on March 26, 2013, Respondent admitted to charging clients a "nonrefundable retainer fee." However, on May 22, 2013, Respondent denied to the Commission that he ever charged a nonrefundable retainer fee, providing a sample fee agreement that did not contain a nonrefundable retainer provision. He also provided the Commission with an "Errata Sheet" purporting to change his deposition testimony to replace statements regarding "nonrefundable retainers" with "refundable retainers."

The Commission mailed a *subpoena duces tecum* to Respondent requesting copies of executed fee agreements with 15 named clients. Respondent provided three fee agreements, which did not contain a nonrefundable fee provision, and told the Commission that the other clients' cases did not require a fee agreement. When a staff member of the Commission later

¹ The attorney who stole money from the Trust Accounts has resigned from the practice of law.

spoke to Respondent by phone, Respondent explicitly denied ever having a nonrefundable provision in any of his fee agreements. Respondent's statements that his fee agreements never contained a nonrefundable fee provision were false.

Aggravating and mitigating facts. The parties cite the following facts in aggravation: (1) Respondent has received a prior private administrative admonition; (2) Respondent's misconduct in Count 1 occurred over a three-year period; (3) Respondent committed multiple offenses; (4) Respondent made false statements and engaged in other deceptive practices during the disciplinary process; and (5) Respondent's misconduct delayed the discovery of another attorney's misappropriation of client funds. The parties cite the following fact in mitigation: Respondent received no financial benefit from his misconduct.

Violations: The parties agree that Respondent violated these Indiana Professional Conduct Rules prohibiting the following misconduct:

- 1.5(a): Making an agreement for, charging, or collecting an unreasonable fee.
- 1.15(g): Falsely certifying that the lawyer is exempt from the requirement of holding an IOLTA trust account.
- 8.1(a): Knowingly making a false statement of material fact to the Disciplinary Commission in connection with a disciplinary matter.
- 8.1(b): Knowingly failing to respond to a lawful demand for information from a disciplinary authority.
- 8.4(c): Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

The parties also agree Respondent violated Rule 4 Governing Attorney Trust Account Overdraft Reporting.

Discipline: Respondent's repeated dishonesty in his Attorney Annual Registration Statements and in his communications with the Commission are serious ethical violations. "It is a perversion of the disciplinary enforcement mechanism when a lawyer intentionally places false statements of fact before the Commission." Matter of Shumate, 626 N.E.2d 459, 461 (Ind. 1993).

The parties propose the appropriate discipline is suspension for six months, without automatic reinstatement. The Court, having considered the submissions of the parties, now approves the agreed discipline.

For Respondent's professional misconduct, the Court **suspends Respondent from the practice of law in this state for a period of not less than six months, without automatic reinstatement, beginning February 28, 2015.** Respondent shall not undertake any new legal matters between service of this order and the effective date of the suspension, and Respondent shall fulfill all the duties of a suspended attorney under Admission and Discipline Rule 23(26). At the conclusion of the minimum period of suspension, Respondent may petition this Court for reinstatement to the practice of law in this state, provided Respondent pays the costs of this proceeding, fulfills the duties of a suspended attorney, and satisfies the requirements for reinstatement of Admission and Discipline Rule 23(4) and (18). Reinstatement is discretionary

and requires clear and convincing evidence of the attorney's remorse, rehabilitation, and fitness to practice law. *See* Admis. Disc. R. 23(4)(b).

The costs of this proceeding are assessed against Respondent. With the acceptance of this agreement, the hearing officer appointed in this case is discharged.

Done at Indianapolis, Indiana, on January 21, 2015.

/s/ Loretta H. Rush
Chief Justice of Indiana

All Justices concur.