

Caught Red Handed – Another Example of Client Trust Account Abuse

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Some attorneys still have not learned. Improper handling of client trust accounts is an ethical violation of the highest degree.

In this disciplinary case, attorney Ray Jetmore King of Gahanna, Ohio was sanctioned by that state's high court for misuse of client trust account funds. In particular, King began paying personal and office expenses with funds contained in his client trust account. To make up for the shortfall on the balance sheet, he deposited personal funds into the account on multiple occasions.

To make matters worse, King claimed the sum of money owed to one client (totaling \$100,000) was in dispute. Based on later stipulations, it was found that King fabricated the fee dispute, probably to buy more time to figure out a way to repay the funds.

King was ultimately found to be in violation of numerous Ohio professional conduct rules, including:

- Failing to maintain complete records of client funds;
- Failing to keep client funds separate from those of the lawyer;
- Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- Failing to promptly deliver funds a client was entitled to receive; and
- Improperly withholding funds in dispute.

When recommending the proper sanctions for these offenses, the Board of Discipline found four aggravating factors: (1) submitting false statements during the disciplinary process; (2) acting with a dishonest and selfish motive; (3) engaging in a pattern of misconduct; and (4) committing multiple offenses. The only mitigating factor found was the absence of any previous disciplinary record. As a result of these offenses, and in light of the aggravating and mitigating factors, the Board recommended a two-year suspension, in addition to legal education and monitored probation. The Supreme Court of Ohio accepted the Board's recommendations and suggested penalties.

Lessons Learned

This is yet another cautionary tale regarding the sacredness of client trust accounts. Simply put, they are not to be meddled with. Strict accounting measures should be undertaken to protect client funds. Intermingling of personal funds with those of a client is strictly prohibited.

Despite these clear-cut rules that should have been learned in law school, during preparations for the Multi-State Professional Responsibility Examination (MPRE), and periodically through continuing legal education (CLE) seminars, some lawyers still make the same mistakes, particularly in smaller offices. As such, it is highly recommended that an independent accountant or financial institution be hired to oversee and manage these funds so that the lawyer can more fully focus on the needs of his or her clients and avoid the pitfalls of client trust account misuse.

By David Hoffman

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