

# In the Indiana Supreme Court

In the Matter of: Byron J. Davis,  
Respondent

Supreme Court Case No.  
20S-DI-420



## Published Order Approving Statement of Circumstances and Conditional Agreement for Discipline

Pursuant to Indiana Admission and Discipline Rule 23(12.1)(b), 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 represented “Plaintiff” (who had filed for bankruptcy) in a personal injury suit. Respondent’s firm had been appointed as special counsel in the bankruptcy proceeding, and the order of appointment required that any proceeds from the lawsuit be turned over to the bankruptcy trustee. In April 2019 Respondent informed the bankruptcy trustee that the lawsuit had settled for \$68,000. For several months Respondent failed to remit the settlement proceeds to the trustee despite multiple assurances he would do so. At some point in this timeframe Respondent removed the proceeds from his trust account. Respondent continued to make false representations to the trustee regarding the status of the remittance. Respondent eventually provided the settlement funds to the trustee in July 2019.

Count 2. In April 2019 Respondent made several transfers to and from his trust account without adequate records or documentation. As a result, by the end of the month he did not have sufficient funds in his trust account on behalf of Plaintiff’s bankruptcy estate. Respondent was asked to provide his trust account records, but the records he provided did not correlate to the records supplied by the bank.

Count 3. During the Commission’s investigation, Respondent told the Commission he believed he was permitted to take his fees and costs prior to sending Plaintiff’s settlement proceeds to the bankruptcy trustee. As noted above, Respondent also provided financial records to the Commission that were inconsistent with those provided by the bank. When the Commission asked Respondent to explain the discrepancies, Respondent did not initially do so. However, Respondent now admits he purposely attempted to mislead the Commission.

**Violations:** The parties agree that Respondent violated these rules prohibiting the following misconduct:

Ind. Professional Conduct Rules:

- 1.15(a): Failing to safeguard property of a client and to keep complete records of property held by the lawyer.

- 1.15(d): Failing to deliver promptly funds owed to a third person.
- 3.3(a)(1): Knowingly making a false statement of fact to a tribunal.
- 3.4(c): Knowingly disobeying a court order.
- 8.1(a): Knowingly making a false statement of material fact to the Disciplinary Commission in connection with a disciplinary matter.
- 8.4(b): Committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer.
- 8.4(c): Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Ind. Admission and Discipline Rules:

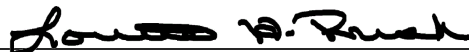
- 23(29)(a): Failing to preserve complete records for an attorney trust account.
- 23(29)(c)(4): Failing to keep sufficiently detailed records of deposits to a trust account.
- 23(29)(c)(5): Making improper disbursements from a trust account.
- 23(29)(c)(6): Failing to keep records of electronic disbursements or transfers from a trust account.
- 23(29)(c)(7): Failing to reconcile internal trust account records with periodic bank account statements.

**Discipline:** The parties propose the appropriate discipline is a one-year suspension 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 one year, without automatic reinstatement, effective immediately.** Respondent already is under an order of suspension for noncompliance with his continuing legal education requirements. 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, cures the causes of all suspensions then in effect, and satisfies the requirements for reinstatement of Admission and Discipline Rule 23(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(18)(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 with the Court's appreciation.

Done at Indianapolis, Indiana, on 7/19/2021.



Loretta H. Rush  
Chief Justice of Indiana

All Justices concur.