

In the Indiana Supreme Court

In the Matter of: Robert Wayne Gray,
Respondent

Supreme Court Case No.
18S-DI-433



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: At relevant times, Respondent was the sole owner and president of his law firm, The Gray Law Group (“TGLG”), and was responsible for the supervision of all TGLG attorneys and employees. TGLG represented two companies (collectively, “USPC”) that worked with inventors to develop, protect, and market inventions.

Pursuant to TGLG’s contract with USPC, TGLG would perform relevant prior art searches on behalf of USPC’s inventor clients and, if able, would draft and file a provisional patent application on behalf of the inventor client. The inventor clients were charged separate fees by USPC for each step. TGLG did not enter into separate representation agreements with these clients. The inventor clients interacted primarily with USPC during this process and were not told of the limitations on representation or how fees would be shared between USPC and TGLG. TGLG did not obtain the inventor clients’ written informed consent to TGLG’s simultaneous representation of, and ongoing business relationship with, USPC. TGLG also did not discuss with the inventor clients the relative benefits or drawbacks of a provisional patent application in comparison to available alternatives, such as filing a non-provisional application.

In December 2016, the United States Patent and Trademark Office (“USPTO”) filed a disciplinary complaint against Respondent based on his referral arrangements with USPC. That complaint resulted in Respondent’s consensual exclusion from practice before the USPTO without an admission of misconduct.

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

- 1.2(a): Failing to consult with a client about the objectives of representation.
- 1.2(c): Failing to obtain a client’s informed consent to limit the scope of representation.

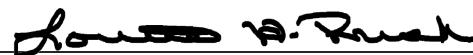
- 1.4(a)(1): Failing to promptly inform a client of any decision or circumstance with respect to which the client's informed consent is required.
- 1.4(a)(2): Failing to reasonably consult with a client about the means by which the client's objectives are to be accomplished.
- 1.4(b): Failing to explain a matter to the extent reasonably necessary to permit a client to make informed decisions.
- 1.7: Representing a client when there is a concurrent conflict of interest without obtaining informed, written consent.
- 1.8(f): Improperly accepting compensation for representing a client from one other than the client.
- 5.1: Failing to make reasonable efforts to ensure that the conduct of another lawyer over whom the lawyer has direct supervisory authority conforms to Rules of Professional Conduct.
- 5.4(c): Permitting a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

Discipline: The parties propose the appropriate discipline is a 30-day suspension with automatic reinstatement. This discipline is within the range imposed in other cases involving similar misconduct. *See Matter of Wall*, 73 N.E.3d 170 (Ind. 2017). 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 for a period of 30 days, effective immediately.** Respondent shall fulfill all the duties of a suspended attorney under Admission and Discipline Rule 23(26). At the conclusion of the period of suspension, provided there are no other suspensions then in effect, Respondent shall be automatically reinstated to the practice of law, subject to the conditions of Admission and Discipline Rule 23(18)(a).

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 7/25/2019.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.