

In the
Indiana Supreme Court

In the Matter of: Lloyd E. Koehler,
Respondent

Supreme Court Case No.
19S-DI-365



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: Respondent has mismanaged his trust accounts since 2009. Among other things, Respondent overdrafted one trust account by about \$38,000, and then replenished about \$44,000 (resulting in more than a nominal amount of his own funds being held in trust); he improperly delegated tasks to, and inadequately supervised, a nonlawyer assistant; he did not maintain adequate trust account ledgers or deposit journals; and he improperly commingled client and attorney funds.

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

Ind. Professional Conduct Rules:

- 1.15(a): Failing to hold property of a client separate from lawyer's own property.
- 1.15(b): Maintaining more than a nominal amount of attorney funds in a trust account.
- 5.3(a): Failing to make reasonable efforts to ensure that the lawyer's firm has taken measures to assure that a nonlawyer employee's conduct is compatible with the professional obligations of the lawyer.
- 5.3(b): Failing to make reasonable efforts to ensure that the conduct of a nonlawyer employee over whom the lawyer has direct supervisory authority is compatible with the professional obligations of the lawyer.

Ind. Admission and Discipline Rules (2016 and earlier):

- 23(29)(a)(1): Failing to deposit clients' funds into a trust account.
- 23(29)(a)(4): Commingling client funds with other funds of the attorney or firm.
- 23(29)(a)(5): Making electronic transfers from a trust account, and making withdrawals without stating the purpose of the withdrawal.

Ind. Admission and Discipline Rules (2017 and later):

- 23(29)(a)(1): Failing to keep a deposit and disbursement journal containing a record of deposits to and withdrawals from an attorney trust account.
- 23(29)(a)(2): Failing to keep sufficiently detailed client ledgers.
- 23(29)(a)(3): Failing to keep records or ledgers detailing the nominal amount of attorney funds held in a trust account.
- 23(29)(a)(6): Failing to keep records of electronic disbursements or transfers from a trust account.
- 23(29)(a)(7): Failing to keep reconciliation reports for a trust account.
- 23(29)(c)(2): Paying personal or business expenses directly from a trust account, and failing to withdraw fully earned fees and reimbursed expenses from a trust account.
- 23(29)(c)(3)(i): Failing, after having delegated authority to distribute trust account funds to a nonlawyer assistant, to have periodic trust account bank statements delivered unopened to attorney.
- 23(29)(c)(3)(ii): Delegating responsibility of conducting periodic reconciliations between internal trust account records and bank statements to a person who has authority to disburse funds from the trust account.
- 23(29)(c)(4): Failing to keep sufficiently detailed record of deposits to trust account.
- 23(29)(c)(7): Failing to reconcile internal trust account records with periodic bank account statements.

Discipline: The Court, having considered the submission of the parties, now approves the following agreed discipline.

For Respondent's professional misconduct, the Court **suspends Respondent from the practice of law for a period of 180 days, beginning on the date of this order, all stayed subject to completion of at least three years of probation.** The Court incorporates by reference the terms and conditions of probation set forth in the parties' Conditional Agreement, which include:

- (1) At Respondent's expense, Respondent's probation shall include trust account monitoring by a CPA who is acceptable to the Commission and who shall report monthly to the Commission.
- (2) Respondent shall cooperate timely and fully with the Commission in the Commission's investigation of any and all matters.
- (3) Respondent shall report to the Commission, in writing and within 14 days, of any failure to comply with the terms of his probation.
- (4) If Respondent violates the terms of his probation and his probation is revoked, any active suspension that is ordered shall be served without automatic reinstatement.

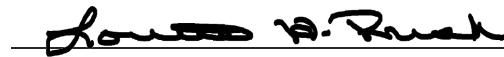
Notwithstanding the expiration of the term of probation set forth above, Respondent's probation shall remain in effect until it is terminated pursuant to a petition to terminate probation filed under Admission and Discipline Rule 23(16).

The costs of this proceeding are assessed against Respondent. Pursuant to the parties' stipulation, the Court hereby orders Respondent to pay the following expenses in separate checks to be transmitted to the Commission: (1) \$14,404.96, payable to the Commission for

investigative expenses; (2) \$250.00, payable to the Clerk for court costs; and (3) \$358.00, payable to the Court for hearing officer expenses.

With the acceptance of this agreement, the hearing officer appointed in this case is discharged.

Done at Indianapolis, Indiana, on 11/13/2019.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.