

In the Indiana Supreme Court

In the Matter of: Anthony F. Tavitias,
Respondent

Supreme Court Case No.
20S-DI-335



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 mismanaged his trust accounts from 2016 through 2018. Among other things, Respondent maintained inadequate records, commingled client funds with personal and business funds, and regularly paid personal and business expenses from his trust account. In one instance, Respondent neglected to timely disburse settlement proceeds to a client. Respondent also failed to keep executed copies of fee agreements in personal injury cases he handled.

Respondent has no prior discipline, has cooperated with the disciplinary process, and has taken several proactive steps to address factors contributing to his misconduct.

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

Ind. Professional Conduct Rules:

1.15(a): Commingling client and attorney funds and failing to maintain and preserve complete records of client trust account funds.

1.15(b): Maintaining more than a nominal amount of attorney funds in a trust account.

1.15(d): Failing to deliver promptly to a client funds the client is entitled to receive.

Ind. Admission and Discipline Rules (2016):

23(29)(a)(5): Making cash withdrawals and electronic disbursements from a trust account.

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)(4): Failing to keep relevant fee agreements.

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 promptly withdraw fully earned fees from a 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 90 days, beginning on the date of this order, all stayed subject to completion of at least 12 months 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 quarterly to the Commission.
- (2) Respondent also shall execute and comply with an Indiana Judges and Lawyers Assistance Program monitoring agreement.
- (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, the stay of his suspension may be vacated and the balance of the stayed suspension may be actively 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 \$902.78 by check made payable to the Clerk of the Indiana Supreme Court and transmitted to the Roll of Attorneys Administrator in the Office of the Clerk of the Indiana Supreme Court. Upon receipt, the Clerk is directed to disburse those funds as follows: (1) \$652.78, payable to the Commission as reimbursement for investigative expenses incurred; and (2) \$250.00, payable to the Clerk for court costs.

Done at Indianapolis, Indiana, on 7/9/2020.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.