

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

JOHNNY P. RAGASA, Respondent.

(ODC 97-176-5370, 99-201-6031, 00-025-6371,
00-065-6411, 99-173-6003, 01-068-6812, 01-083-6872)

ORDER OF DISBARMENT

(By: Moon, C.J., Levinson, Nakayama, Ramil, JJ., and
Intermediate Court of Appeals Judge Burns,
in place of Acoba, J., recused)

We have considered the Disciplinary Board's Report and Recommendation for the Suspension of Respondent Johnny P. Ragasa from the Practice of Law for a Period of Five Years. The Disciplinary Board's findings of fact and conclusions of law are supported by the record. The Disciplinary Board's recommended five-year suspension is not consistent with our past practice and would not protect the public and maintain the integrity of the legal profession and the dignity of the courts. See Office of Disciplinary Counsel v. Breiner, 89 Hawai'i 167, 173, 969 P.2d 1285, 1291 (1999). We impose disbarment.

In representing clients, Respondent Ragasa committed at least one hundred and eighty-six violations of the Hawai'i Rules of Professional Conduct (HRPC) including:

- three violations of HRPC 1.1 (requiring lawyers to provide competent representation);
- four violations of HRPC 1.3 (requiring a lawyer to act with reasonable diligence);
- five violations of HRPC 1.4(a) (requiring a lawyer to keep a client reasonably informed);

- one violation of HRPC 1.4(b) (requiring a lawyer to explain a matter to the client to permit the client to make informed decisions);
- two violations of HRPC 1.5(c) (requiring that contingent fee agreements be in writing);
- three violations of HRPC 1.15(a)(1) (requiring a lawyer to maintain a client trust account);
- nine violations of HRPC 1.15(c) (prohibiting a lawyer from commingling or misappropriating client funds, and requiring that funds belonging in part to a client and in part to a lawyer must be deposited into a trust account);
- three violations of HRPC 1.15(d) (requiring that all funds entrusted to a lawyer must be deposited intact into a trust account);
- one violation of HRPC 1.15(e) (allowing only a licensed attorney to be an authorized signatory on an attorney trust account);
- sixteen violations of HRPC 1.15(f)(3) (requiring a lawyer to maintain complete records of all funds coming into the lawyer's possession);
- seventeen violations of HRPC 1.15(g) (requiring a lawyer to maintain financial records for at least six years after employment);
- fifteen violations of HRPC 1.15(h) (requiring a lawyer to maintain bookkeeping records that are available for inspection at the lawyer's principal office);
- two violations of HRPC 1.16(a)(1) (prohibiting a lawyer from representing a client where the representation will result in a violation of the HRPC or other law);
- one violation of HRPC 1.16(d) (requiring a lawyer to take reasonable steps to protect a client's interest upon termination of representation);
- three violations of HRPC 3.2 (requiring a lawyer to make reasonable efforts to expedite litigation);
- two violations of HRPC 3.4(e) (prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal);

- twelve violations of HRPC 5.5(a) (prohibiting a lawyer from practicing law in a jurisdiction where doing so violates regulations in that jurisdiction);
- seven violations of HRPC 8.1(b) (prohibiting a lawyer from knowingly failing to respond to a lawful demand by the ODC);
- sixty-two violations of HRPC 8.4(a) (prohibiting lawyers from violating the HRPC);
- sixteen violations of HRPC 8.4(c) (prohibiting a lawyer from engaging in dishonesty, fraud, deceit, or misrepresentation); and
- two violations of HRPC 8.4(d) (prohibiting a lawyer from failing to cooperate during an ethics investigation).

Of these numerous HRPC violations, the most serious violations were Respondent Ragasa's conversion of clients' funds for his own use in violation of HRPC 1.15(c) (prohibiting a lawyer from misappropriating client funds). Absent strong mitigating circumstances, "misappropriating the funds of his clients violates the most basic rule of professional responsibility and requires the severest disciplinary sanction." Office of Disciplinary Counsel v. Lau, 85 Hawai'i 212, 215, 941 P.2d 295, 298 (1997) (citations and internal quotation marks omitted). The mitigating factors in this case are not strong and Respondent Ragasa's violations are severe. Therefore,

IT IS HEREBY ORDERED that Respondent Johnny P. Ragasa is disbarred from the practice of law in Hawai'i, effective thirty (30) days after entry of this order, as provided by Rule 2.16(c) of the Rules of the Supreme Court of Hawai'i (RSCH).

IT IS FURTHER HEREBY ORDERED that, as additional conditions of reinstatement, Respondent Ragasa must (1) pay restitution to (a) Macario D. Deguzman and Socorro Deguzman in the amount of \$1,000.00, (b) Lionel Edward Edwards and Cecilia Reyes Edwards in the amount of \$1,000.00, (c) Petra Mullins in the amount of \$545.00, (d) Claralyn Guirnalda in the amount of \$1,000.00, or (e) reimburse the Lawyers' Fund for Client Protection if any of these amounts are paid by the Lawyers' Fund for Client Protection, and (2) reimburse Petitioner Office of Disciplinary Counsel and the Disciplinary Board for all costs subsequently ordered by this Court in accordance with RSCH Rule 2.3(c).

DATED: Honolulu, Hawai'i, June 3, 2002.