

NO. 25600

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

HERMAN H.M. LING, Respondent.

(ODC NOS. 03-147-7747, 03-254-7854, 03-257-7857)

ORDER OF DISBARMENT

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the Disciplinary Board's Report and Recommendation for the Disbarment of Herman H.M. Ling from the practice of law and Respondent Ling's lack of objection thereto as evidenced by his failure to respond to the petition for discipline in this case, as permitted by Rule 2.7(c) of the Rules of the Supreme Court of the State of Hawai'i ("RSCH"), it appears that in his representation of multiple clients, Respondent Ling's behavior constituted violations or multiple violations of Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 1.15(c), 1.15(f)(3), 1.16(d), 3.2, 3.4(e), 5.3(b), 5.3(c), 5.5(a), 8.1(b), 8.4(a), 8.4(c), and 8.4(d) of the Hawai'i Rules of Professional Conduct.

It further appears, in aggravation, that Respondent Ling had a dishonest or selfish motive, there were multiple offenses, a pattern of misconduct, and actual injury to vulnerable clients. Respondent Ling also has prior discipline. Respondent Ling received an Informal Admonition on December 9, 2003, and was suspended from the practice of law on June 18, 2003, for failing to cooperate with the investigation of 22 other pending cases. Respondent Ling also engaged in bad faith obstruction of the disciplinary proceeding, refuses to

acknowledge the wrongful nature of his conduct, and is indifferent to making restitution. In mitigation, Respondent Ling's suffers from physical disability and personal or emotional problems.

It finally appears that Respondent Ling's conduct warrants disbarment. See, e.g., Office of Disciplinary Counsel v. Lau, 85 Hawai'i 212, 215-216, 941 P.2d 295, 298-299 (1997) ("This court has consistently held that misappropriation of client funds will result in disbarment, absent strong mitigating circumstances"). Therefore,

IT IS HEREBY ORDERED that Respondent Herman H.M. Ling is disbarred from the practice of law in this jurisdiction, effective upon entry of this order.

IT IS FURTHER ORDERED that, as a condition of reinstatement,

1. Respondent Ling shall pay restitution as follows:
 - a. Gwenlyn V. Brush - \$750.00.
 - b. Pedrito Lucas - \$1,200.00.
2. Respondent Ling shall pay any costs of these proceedings as approved upon timely submission of a bill of costs, and shall comply with the requirements of RSCH 2.16.

IT IS FINALLY ORDERED that, upon the effective date of this order, the Clerk shall strike the name of Herman H.M. Ling from the roll of attorneys authorized to practice law in this jurisdiction.

DATED: Honolulu, Hawai'i, October 12, 2004.