

NO. 27543

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

ANDREW L. LICHTENBERG, Respondent.

(ODC 04-166-8146)

ORDER OF DISBARMENT

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

Upon consideration of (1) the Disciplinary Board of the Hawai'i Supreme Court's (Disciplinary Board) October 12, 2005 report and recommendation to disbar Respondent Andrew Lew Lichtenberg (Respondent Lichtenberg) and order Respondent Lichtenberg to pay restitution in the amount of \$347,800.00 and (2) the record, we adopt the Disciplinary Board's findings and conclusions. In sum, Respondent Lichtenberg misappropriated Ellen R. Hyman's \$1,800.00 retainer, and misappropriated \$373,000.00 from the sale of Ms. Hyman's real estate interest. Respondent Lichtenberg's misappropriation and other misconduct violated multiple provisions of the following Hawai'i Rules of Professional Conduct (HRPC):

- HRPC Rule 1.2(a) (requiring that a lawyer shall abide by a client's decisions concerning the objectives of representation);
- HRPC Rule 1.4(a) (requiring that a lawyer shall keep a client reasonably informed about the status of a matter);
- HRPC Rule 1.4(b) (requiring that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation);

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- HRPC Rule 1.7(b) (requiring that a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's own interests);
- HRPC Rule 1.15(a)(1) (requiring that every lawyer in private practice in the State of Hawai'i who receives or handles client fund shall maintain a client trust account into which all funds entrusted to the lawyer's care shall be deposited);
- HRPC Rule 1.15(b) (requiring that each client trust account check shall be prominently labeled "client trust account");
- HRPC Rule 1.15(b) (requiring that client trust account checks shall bear preprinted consecutive numbers);
- HRPC Rule 1.15(c) (prohibiting a lawyer from misappropriating a client's funds to his or her own use and benefit);
- HRPC Rule 1.15(c) (requiring that funds belonging in part to a client and in part presently or potentially to the lawyer must be deposited into the client trust account);
- HRPC Rule 1.15(d) (requiring that all funds entrusted to a lawyer shall be deposited intact into a client trust account);
- HRPC Rule 1.15(d) (requiring that all fee retainers shall be maintained in a client trust account until earned);
- HRPC Rule 1.15(e) (requiring that all client trust account withdrawals shall be made only by authorized bank transfer or by check made payable to a named payee and not to cash);
- HRPC Rule 1.15(f)(4) (requiring that a lawyer shall promptly pay or deliver to the client, as requested by the client, the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive);
- HRPC Rule 1.16(d) (requiring that, upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as surrendering papers and property to which the

client is entitled and refunding any advance payment of fee that has not been earned);



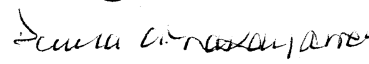
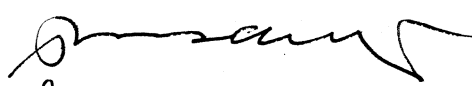
- HRPC Rule 8.4(a) (providing that it is professional misconduct for a lawyer to violate the rules of professional conduct); and
- HRPC Rule 8.4(c) (providing that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation).

In light of Respondent Lichtenberg's egregious ethics violations, we adopt the Disciplinary Board's report and recommendation to disbar Respondent Lichtenberg, and we order Respondent Lichtenberg to pay restitution in the corrected amount of \$374,800.00. Therefore,

IT IS HEREBY ORDERED that Respondent Andrew Lew Lichtenberg (attorney number 7850) is disbarred from the practice of law in Hawai'i, effective immediately. It is further ordered Respondent Andrew Lew Lichtenberg (attorney number 7850) shall pay restitution in the corrected amount of \$374,800.00 to Ellen R. Hyman.

IT IS FURTHER ORDERED that Petitioner Office of Disciplinary Counsel (Petitioner ODC) shall notify the appropriate law enforcement authorities of Respondent Lichtenberg's misconduct. Petitioner ODC shall make all of the records from Respondent Lichtenberg's disciplinary matter available to law enforcement authorities.

DATED: Honolulu, Hawai'i, December 20, 2005.





James E. Dobby, Jr.