

NO. 27590

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

SHARON V. MATUTINO, Respondent.

(ODC 02-019-7217, ODC 02-083-7281,
ODC 03-060-7660, ODC 03-061-7661, ODC 03-203-7803)

ORDER OF SUSPENSION

(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) November 10, 2005 report and recommendation to suspend Respondent Sharon V. Matutino (Respondent Matutino) from the practice of law for two years, and (2) the record, we adopt Petitioner Office of Disciplinary Counsel (Petitioner ODC) and Respondent Matutino's October 12, 2005 stipulation of uncontested facts, conclusions of law, aggravating factors, and proposed discipline, with the exception, however, that we adopt only the following four of the six listed mitigating factors: (1) the absence of a prior disciplinary record for Respondent Matutino; (2) Respondent Matutino's personal or emotional problems; (3) Respondent Matutino's cooperative attitude in the disciplinary proceedings; and (4) Respondent Matutino's remorse for her misconduct. In sum, Respondent Matutino misappropriated and mishandled the funds of several clients, failed to diligently perform legal services in a timely manner for clients, and ratified her associate and/or employee, Peter Albrecht's, practice of law without a license in Hawai'i. Respondent Matutino's misconduct on multiple occasions violated the following Hawai'i Rules of Professional Conduct

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(HRPC):

1. HRPC Rule 1.1 (requiring that a lawyer shall provide competent representation to a client);
 2. HRPC Rule 1.3 (requiring that a lawyer shall act with reasonable diligence and promptness in representing a client);
 3. HRPC Rule 1.15(a)(1) (requiring that every lawyer in private practice in the State of Hawai'i who receives or handles client funds shall maintain a client trust account into which all funds entrusted to the lawyer's care shall be deposited);
 4. HRPC Rule 1.15(b) (requiring that each business account, as well as deposit slips and checks drawn thereon, shall be prominently labeled "business account," "office account," or appropriate business-type account);
 5. 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 funds entrusted to a lawyer shall be deposited intact into a trust account);
 - HRPC Rule 1.15(f)(4) (requiring that a lawyer 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 refunding any advance payment of a fee that has not been earned);
 - HRPC Rule 3.2 (requiring that a lawyer shall make reasonable efforts to expedite litigation consistent with the legitimate interests of the client);
 - HRPC Rule 5.3(c)(1) (providing that, with respect to a nonlawyer employed or retained by or associated with a lawyer, the lawyer shall be responsible for conduct of such a person that would be a violation of the rules of

professional conduct if engaged in by a lawyer if the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved); and


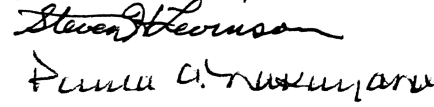
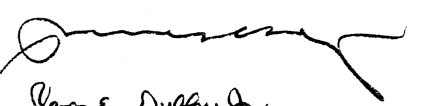
- HRPC Rule 8.4(a) (providing that it is professional misconduct for a lawyer to violate the rules of professional conduct).

In light of Respondent Matutino's egregious ethics violations, as well as the four mitigating factors, we adopt the Disciplinary Board's report and recommendation to suspend Respondent Matutino from the practice of law for a period of two years. Therefore,

IT IS HEREBY ORDERED that Respondent Sharon V. Matutino (attorney number 4569) is suspended from the practice of law in this jurisdiction for a period of two (2) years, effective thirty (30) days after entry of this order, as provided by RSCH Rule 2.16(c).

IT IS FURTHER ORDERED that, before Respondent Matutino may apply for reinstatement, she must, in addition to all other standards for reinstatement in RSCH Rule 2.17, (1) successfully complete, at her own expense, the Practicing Attorneys Liability Management Society's practice management/law office audit program, (2) pay restitution to Heather Titus in the amount of \$1,000.00 and pay restitution to Gayle L. Waddingham in the amount of \$400.00, (3) take and pass, at her own expense, the Multi-State Professional Responsibility Examination, and (4) reimburse the Disciplinary Board for the costs associated with these disciplinary proceedings.

DATED: Honolulu, Hawai'i, January 24, 2006.


Steven H. Levinson

Pamela A. Nishimura

James E. Duffy, Jr.