NO. 22535

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

WILLIAM H. ELKNER, Respondent.

(ODC NOS. 98-075-5566, 98-225-5746, 99-030-58
99-038-5868, 99-075-5905, 99-138-5968,
99-446-6276, 00-106-6452)

AMENDED[1] 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 suspension of William H. Elkner, and the opening, answering, and reply briefs, testimony, and exhibits in the record, it appears that Respondent Elkner provided incompetent representation, failed to act with reasonable diligence and promptness in representing a client, mishandled an application fee, failed to maintain financial records, mislabeled bank records, failed to provide clients with accurate accountings, commingled and misappropriated the funds of three of his clients to his own use and benefit, delayed distributing settlement proceeds, made false certifications, failed to respond to lawful demands for information, failed to cooperate during the course of ethics investigations, and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in multiple

[1] The original order entered and effective on January 17, 2007 inadvertently omitted ODC Nos. 99-446-6276 and 00-106-6452 from the caption.

violation of Rules 1.1, 1.4(a), 1.15(a)(1), 1.15(b), 1.15(c), 1.15(d), 1.15(e), 1.15(f)(3), 1.15(f)(4), 1.15(g), 1.15(h), 1.16(d), 3.4(e), 8.1(b), 8.4(a), 8.4(c), and 8.4(d) of the Hawai'i Rules Of Professional Conduct ("HRPC"). In aggravation, there was a dishonest or selfish motive, a pattern of misconduct, a refusal to acknowledge the wrongful nature of conduct, multiple offenses, vulnerable clients, and bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency. In mitigation, Respondent Elkner has no prior disciplinary record. Respondent Elkner's personal or emotional problems occurred primarily in 1997, and are outside the relevant period (1998 to 1999, and continuing thereafter to the filing of the Petition in 2004) of his professional misconduct and provide no mitigation. In light of the commingling and misappropriation of client funds and the lack of strong mitigating factors, see, e.g., Office of Disciplinary Counsel v. Silva, 63 Haw. 585, 633 P.2d 538 (1981) and Disciplinary Board v. Kim, 59 Haw. 449, 583 P.2d 333 (1978) (misappropriation of client funds warrants disbarment absent strong mitigating circumstances),

IT IS HEREBY ORDERED that Respondent William H. Elkner is disbarred from the practice of law in this jurisdiction, effective January 17, 2007.

IT IS FURTHER ORDERED that, in addition to the requirements for reinstatement set forth in RSCH 2.17 or other applicable rules, Respondent Elkner shall not be eligible for

reinstatement unless he has (1) complied with any order for payment of costs entered upon a properly verified bill of costs submitted by the Office of Disciplinary Counsel, and (2) taken the RSCH 1.14 Mandatory Professionalism Course at his own expense.

IT IS FINALLY ORDERED that all other relief requested is denied.

DATED: Honolulu, Hawai'i, February 20, 2007.