

Summary of SC90652, *In re: Renae Ehler*

Disciplinary proceeding involving Chariton County attorney
Argued and submitted May 4, 2010; opinion issued Aug. 31, 2010

Attorneys: The chief disciplinary counsel, Alan D. Pratzel of Jefferson City, (573) 635-7400, represented himself; Ehler of Keytesville, (660) 833-7533, also represented herself.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: The chief disciplinary counsel seeks this Court's discipline of an attorney whose license previously was disciplined for similar violations of the rules of professional responsibility and who was on probation when some of the current acts occurred. In a unanimous decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri orders the attorney disbarred. The attorney violated five ethics rules, including using money she owed to clients to pay personal expenses. Given aggravating circumstances, including the previous discipline and failure to improve while on probation, disbarment is the appropriate sanction.

Facts: In 2007, R.K. hired attorney Renae Ehler to represent her in a dissolution action against H.M. In January 2008, the parties reached a settlement requiring the couples' property to be sold and the net proceeds to be divided equally between them after payment of all debts. Ehler was to handle distribution of the proceeds and file a proposed dissolution decree. She waited months to file the proposed decree – until she was facing a contempt action for her failure to do so – and the court entered its judgment in July 2008. Following the settlement, Ehler received several checks totaling more than \$67,500 from the sale of the property and tax refunds and deposited them into her trust account. In July 2008, she paid herself and the creditors. The remaining balance should have been a little more than \$49,000 to be distributed equally to R.K. and H.M. In September 2008, Ehler sent R.K. a check for almost \$20,460 – more than \$4,300 less than what R.K. should have received – and did not send H.M. his portion of the proceeds despite repeated contacts from H.M.'s lawyer in an effort to acquire his client's money. R.K. requested an accounting from Ehler, but she never provided it to her. R.K. then filed a complaint with the chief disciplinary counsel.

C.G. and his wife hired Ehler to represent him in defending a lawsuit involving a claim for unpaid water bills. He wished to assert that he had not lived at the property where the water bills had been generated during the time in question because he was living in Iowa, and he had documentary evidence to offer as proof of his assertion. He sent the documents to Ehler, but her only contact with him after then was to tell him a court date had been continued. She previously had told him that the plaintiffs in his case had questions he needed to answer and that she would send him the interrogatories for him to complete. She never did so, and the court ultimately entered default judgment against C.G. as a sanction for his failure to comply with the discovery requests. She did not tell C.G. about the court date or that the court entered the default judgment against him. As a result, his wages were garnished and his credit rating was damaged. He also filed a complaint against Ehler with the chief disciplinary counsel.

During the course of the investigation, the chief disciplinary counsel's staff found Ehler had made 12 payments for personal or office bills out of her client's trust account, which as a result had a balance that was about \$2,100 less than what Ehler owed to R.K. and H.M. Although she paid them part of what they were owed, she still owes them more than \$2,100.

Following a hearing, a regional disciplinary panel found that Ehler had violated five rules of professional responsibility and that mitigating factors were outweighed by aggravating factors, including the fact that this Court previously disciplined Ehler's license for similar issues, suspending her, staying the suspension, placing her on probation for two years and requiring her to consult with two practicing attorneys. The panel recommended disbarment. The chief disciplinary counsel asks this Court to discipline Ehler's law license.

DISBARRED.

Court en banc holds: (1) A preponderance of the evidence demonstrates that Ehler violated the rules of professional conduct.

(a) Ehler violated Rule 4-1.1 in her incompetent representation of R.K. and C.G. She failed to calculate the money owed to R.K. and H.M. properly and failed to deliver to them the correct amount from the proceeds of the sale of their marital property. She also failed to give C.G. the interrogatories he was required to complete and return to opposing counsel, causing a default judgment to be taken against him.

(b) Ehler violated Rule 4-1.3 in failing to act with diligence in her representation of R.K. and C.G. She failed to deliver timely the money owed to R.K. and H.M. from the trust account in which she held their funds. Her failure to give the interrogatories to C.G. denied him the opportunity to defend against the lawsuit and caused a default judgment to be entered against him as a sanction for failing to comply with discovery.

(c) Ehler violated Rule 4-1.4 in failing to keep R.K. reasonably informed about the status of her case, despite her repeated queries to Ehler about her dissolution decree, and in failing to comply promptly with R.K.'s repeated requests for information about the sale of the marital property.

(d) Ehler violated Rule 4-1.5 by failing to safe-keep her clients' property. She failed to maintain a client trust account properly, failed to balance it regularly and failed to deliver funds timely to R.K. and H.M., instead using portions of that money for her own purposes. She also failed to create a data backup system on the advice of an attorney assigned to help teach Ehler law office management and failed to prepare and provide an accounting to the chief disciplinary counsel on request.

(e) Ehler violated Rule 4-8.4 by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. She violated four other rules of professional misconduct, and she knowingly converted client funds to pay her personal expenses directly from her client trust account.

(2) Disbarment is the appropriate punishment for Ehler's violations. When an attorney has committed multiple acts of misconduct, the ultimate sanction imposed should be consistent with the sanction for the most serious instance of misconduct. Here, the most egregious act of misconduct is Ehler's misappropriation of client funds and mishandling of her trust account, for which disbarment is appropriate. Aggravating circumstances also are present. Ehler's current offenses involve violation of three ethics rules for which she previously was disciplined. Her repeated conversion of client funds for her personal uses shows a dishonest and selfish motive, and she repeatedly behaved with a lack of diligence and failure to provide competent representation. She also has shown an indifference to making restitution. These outweigh the mitigating factors of Ehler's ongoing, acrimonious dissolution and attendant effects on her emotionally and financially as well as her cooperation with the chief disciplinary counsel's office. Disbarment is consistent with a progressive disciplinary scheme, given that her license was suspended in 2005, her suspension was stayed, and she served two years on probation to enable her to learn how to manage her law practice and trust account. In fact, Ehler still was on probation when she withdrew money from her client trust account to pay personal expenses.