IN THE SUPREME COURT
STATE OF MISSOURI

IN RE:	)	
	)	
RUSSELL A. WILLIS, II	)	**Supreme Court #SC84696**
	)	
Respondent.	)	

INFORMANT'S BRIEF

OFFICE OF
CHIEF DISCIPLINARY COUNSEL

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ATTORNEYS FOR INFORMANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

OTHER AUTHORITIES

RULES

STATEMENT OF JURISDICTION

Jurisdiction over this attorney discipline matter is established by Article 5, section 5 of the Missouri Constitution, Supreme Court Rule 5, this Court's common law, and Section 484.040 RSMo 1994.

STATEMENT OF FACTS

Background

Respondent Willis was admitted to Missouri's Bar in September of 1979. **T.** 57; **Ex.** 3, ¶ 3. Respondent practices out of an office in Creve Coeur, Missouri. **T.** 57. Respondent began serving in the St. Louis area as a special representative of the Office of Chief Disciplinary Counsel in November of 1983. **T.** 58-59. Respondent is very familiar with Supreme Court Rules 4 and 5. **T.** 59, 79-80. In addition to his work as a special representative, Respondent maintains a private practice primarily in the areas of probate, trust administration, and estate planning. **T.** 57-58, 60, 73. Respondent has an LL.M. in taxation. **T.** 57. Respondent was a frequent speaker at seminars and published articles on trust administration, probate, and estate planning. **T.** 57-58. Respondent ceased working as a special representative for the Office of Chief Disciplinary Counsel in early 2000. **T.** 59.

Early Relationship With Complainant

In January of 2000, Frank Ikemeier wrote a letter of complaint against Respondent to the Chief Disciplinary Counsel. **Ex.** 23. Mr. Ikemeier initially met Respondent on March 20, 1997. **T.** 10. Frank Ikemeier (Frank) and his brothers Michael and Donald were contingent beneficiaries of the Spilcker trust, and their mother, LaVaughn Ikemeier Roden Cox, was the income beneficiary of the trust. **T.** 8, 11-12. The trust had been established by LaVaughn's brother in 1975. LaVaughn had been the income beneficiary of the trust since her brother's death in 1977. **T.** 8. Lawyer Charles Sigoloff, a family friend of LaVaughn and her brother/grantor, was trustee of the Spilcker trust. **T.** 9. For some unspecified period of time prior to March of 1997, Mr. Sigoloff had been forwarding only sporadic payments to LaVaughn and had not been sending her trust tax statements. **T.** 9. Frank held a durable power of attorney for his mother, LaVaughn, at the time in question, although LaVaughn was likely not incompetent. **T.** 66. Frank, who wanted to find out what could be done about the problems LaVaughn was having with Mr. Sigoloff, was referred to Respondent by another lawyer, who told Frank that Respondent was very knowledgeable in trust law. **T.** 21. Either the lawyer who referred Frank to Respondent or Respondent himself made Frank aware early on that Respondent was on an "ethics committee." **T.** 21-22. This information gave Frank some peace of mind since he and his mother were having difficulties with lawyer Sigoloff. **T.** 22.

At the initial meeting between Frank and Respondent on March 20, 1997, Respondent advised Frank that pleadings could be filed to break the Spilcker trust, and a new trust established. **T.** 10. Respondent wrote Frank a letter the next day outlining his proposed course of action and estimating that the cost in legal fees would be between $3,000 and $4,000 at $175 per hour. The letter excluded from those estimated fees "possible contested matters involving Sigoloff's possible resistance to our plan or possible deficiencies in his accounting or delivery of trust assets." **Ex.** 4.

Respondent thereafter drafted and filed on April 8, 1997, the necessary pleadings to terminate the Spilcker trust. **T.** 14; **Ex.** 6. Respondent drafted a new trust, the LaVaughn Ikemeier Roden Cox trust (referred to in exhibit 3 as the "April trust"), naming himself as trustee. **T.** 74; **Ex.** 5. It was the only time in his practice that

Respondent named himself as the functioning trustee. **T.** 98. Frank agreed to let Respondent be trustee of the new trust. **T.** 14, 64. Respondent perceived his roles as several: the lawyer for the LaVaughn Ikemeier Roden Cox trust, the trustee of the LaVaughn Ikemeier Roden Cox trust, the lawyer for himself as trustee, and the lawyer representing LaVaughn for purposes of terminating the Spilcker trust. **T.** 65-67. Respondent never put any of the possible conflicts of interest potentially raised by these roles in writing. **T.** 70-71.

<u>Post-Spilcker Trust</u>

Terminating the Spilcker trust and reforming it as the LaVaughn Ikemeier Roden Cox trust was a "walk through" because Respondent had the consent of all the interested parties. **T.** 71. Once the judge ordered transfer of the trust assets into the reformed trust, Respondent set about piecing together the financial records regarding the trust assets. **T.** 73. It was difficult for Respondent to deal with Mr. Sigoloff because Mr. Sigoloff was elderly and had marginal mental competence. **T.** 9, 72-73. By June or July of 1997, Respondent was able to figure out what had gone on with the trust assets, and more particularly, what had happened with some Mobil stock that had been in the trust. **T.** 73. In a letter written by Respondent to Mr. Sigoloff on June 20, 1998, Respondent related that the Mobil stock had been sold at Mr. Sigoloff's election because Mr. Sigoloff declined to pay a search fee undertaken by the paying agent for Mobil dividends (because dividend checks were not being cashed). **Ex.** 7. Upon learning that the Mobil stock had been sold, Respondent realized that the trust had incurred a capital gains tax liability. **T.**

76-77. Respondent immediately came up with a strategy to offset the capital gains tax liability: they would offset the capital gains tax liability by reporting "accrued" attorney's fees in 1997. **T.** 86. For tax reporting purposes, Respondent defined "accrued" as an advance on legal fees. **T.** 87. Respondent believed it was a reasonable tax reporting position to take with the Internal Revenue Service because litigation against Mr. Sigoloff was anticipated, which would cause the trust to incur substantial future legal fees. **T.** 69, 86, 89.

Respondent discussed the tax strategy with Frank, who agreed to the strategy. **T.** 20-21; **Ex.** 3, ¶ 7. The tax strategy was not discussed in detail. There was never any mention of where the advanced legal fees would go or how much Respondent could advance himself out of the trust. **T.** 21, 35, 41. The offset strategy was not reduced to writing. **T.** 23, 69. Except for the March 21, 1997, engagement letter (**Ex.** 4), which covered Respondent's anticipated attorney fees for terminating the Spilcker trust and drafting the replacement trust, there was no written agreement or verbal contract as to how much Respondent would be compensated for the work he did for the trust. **T.** 64.

Respondent was desperate for money in 1996, 1997, and 1998. He had fewer than 20 open files at the time. **T.** 87. Respondent owed a sizeable amount of money to the IRS. **Ex.** 14, p. 2.

Over the course of eighteen months, from late 1997 through mid-1998, Respondent made periodic withdrawals from the trust's two accounts to himself. **T.** 82-83; **Exs.** 25-26. Respondent never deposited so much as a nickel of any of the withdrawn trust funds into his escrow account. **T.** 85-86; **Ex.** 3, ¶ 8. Until February 1, 2000, Respondent did not provide the trust beneficiaries with any regular statements or accountings for either the trust assets or the amount of attorney fees he was incurring on behalf of the trust.[1] **T.** 18, 27, 35, 39.

Respondent believed that he was borrowing money from the trust, which he needed to meet his ongoing financial needs. **T.** 87, 110. Money was withdrawn at the rate needed to meet cash needs at the Willis household and was not withdrawn in conjunction with the time Respondent was expending on the case. **T.** 90, 101. Respondent drafted a promissory note in August of 1998 documenting that Respondent, as principal of "Pegasus/Planned Giving Support Services, a Missouri venture" was indebted to the LaVaughn Ikemeier Roden Cox irrevocable trust and would repay within five years all amounts advanced to Respondent not to exceed $20,000 at 9% interest, compounded annually. **Ex.** 10. Respondent did not tell Frank or any of the trust beneficiaries about the promissory note when it was drafted. **T.** 27, 88. Respondent did not disclose the note at the time it was drafted because he was anxious and embarrassed about the transaction and was optimistic that he could repay the trust before anyone found out. **T.** 93-94. Respondent drafted the promissory note to protect the trust. **T.** 89-90. Respondent realized by August of 1998 that he was not earning fees by doing work for the trust fast enough to repay the trust the monies he was advancing himself. **T.** 87-88.

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[1] As is set forth later in this statement of facts, it was eventually established that Respondent withdrew $35,141.01 (including interest) more in trust assets than he earned in attorney fees.

Pegasus Planned Giving Support Services was never a registered business entity; rather, it was "letterhead" that Respondent used to do consulting work with the planned giving industry. Only Respondent was involved in it. **T.** 85. Respondent provided the trust no collateral for the monies Respondent withdrew. **T.** 91. Respondent knew at the time he was withdrawing the money that he did not have the assets to back up the "loan." **T.** 89. Respondent believed that the trustee's powers clause in the LaVaughn Ikemeier Roden Cox trust gave him the technical legal authority to loan himself money from the trust, **T.** 74-75; **Ex.** 5, ¶ 12, but Respondent acknowledges that it was self-dealing, a "poor investment," and one in which he had a conflict of interest. **T.** 75, 89.

<u>Trust Beneficiaries Learn About the "Loan"</u>

LaVaughn Ikemeier Roden Cox died on Saturday, March 20, 1999. **T.** 23. On Monday morning, March 22, Frank called Respondent to say that he and his two brothers were coming to Respondent's office to discuss the trust with him. **T.** 23-24. During the office meeting on March 22, 1999, Respondent told the three contingent beneficiaries what assets were left in the trust. Respondent told the brothers that in addition to what could be distributed right away there was an additional $20,000 or so that was in the form of an instrument that would not mature for some time and could not be immediately liquidated. **T.** 26, 93; **Ex.** 3, ¶ 12, **Ex.** 24. Respondent told the brothers nothing about the "loan" or the promissory note. **T.** 26-27. The brothers were not concerned that anything was awry when they left that day. **T.** 26.

On May 11, 1999, Respondent filed suit on behalf of the Ikemeier brothers against Mr. Sigoloff seeking damages as a result of Sigoloff's neglect while trustee of the Spilcker trust. **T.** 19; **Ex.** 9. In the course of communicating with Respondent about the case pending against Mr. Sigoloff, Frank periodically asked about the "other money" that had not yet been distributed from the trust. Respondent always stated or implied that the file necessary for him to answer Frank's questions was in another office or not at hand. **T.** 28. Frank directed Respondent to bring the instrument documenting the additional funds to a court hearing on the Sigoloff case scheduled in October of 1999. **T.** 29-30. At the courthouse, Respondent gave Frank an envelope containing a copy of the August 1998 promissory note. **T.** 30. Frank did not know what the note was, so he took it across the street to a lawyer/friend's office. The lawyer/friend, Gary Paul, did some checking, and they learned that the document was an unsecured promissory note by Respondent on behalf of an unregistered business entity. **T.** 31-32.

Frank wrote Respondent a letter dated October 26, 1999, expressing his concerns about the promissory note and the remaining trust assets and demanding return of the $20,000 plus interest. **Ex.** 11. By letter dated October 29, 1999, Respondent explained to the Ikemeier brothers that he had moved a considerable amount of money out of the trust's accounts and into an account in his own name to offset the projected capital gains tax. Respondent stated that when he realized he was not earning fees at as fast a rate as he was removing trust funds, he did not restore the funds directly, as to do so would compromise their tax reporting position. Respondent admitted that he was "completely unable to repay the principal at this moment." **Ex.** 3, ¶ 14, 16; **Ex.** 12. The Ikemeiers thereafter retained attorney Gary Paul and attorneys at Susman, Schermer to help them resolve their issues with Respondent. **T.** 36, 40. Mr. Paul eventually replaced Respondent as the Ikemeiers' counsel in the Sigoloff case and in May of 2000 settled the case for $15,000. **T.** 42-43; **Exs.** 19, 20.

The Ikemeier brothers hired Susman, Schermer at Mr. Paul's urging to get the benefit of that firm's expertise in trust law. **T.** 40. Mr. Schermer did a handwritten accounting of the LaVaughn Ikemeier Roden Cox trust and came up with a number representing the difference between the amount Respondent withdrew from the trust and the amount Respondent had earned in attorney's fees. **T.** 46, 83-84. According to Mr. Schermer's accounting, Respondent withdrew $29,322 more than he was entitled to receive and owed $5,819 in interest. **T.** 47; **Ex.** 3, ¶ 18. Respondent readily agreed to the calculation. **T.** 83-84. The Ikemeiers paid Susman, Schermer between $8,000 and $10,000 in attorney's fees. **T.** 49.

Respondent agreed to sign a stipulation for settlement of the claims the Ikemeiers had against him in the total amount of $35,141.01. **Ex.** 3, ¶ 18. The necessary pleadings were drafted and filed in October of 2000. **Ex.** 3, ¶ 17; **Ex.** 21. Respondent borrowed the money to satisfy the judgment. **T.** 92. A satisfaction of judgment was filed in April of 2001. **Ex.** 22.

Disciplinary Case

An information was served on Respondent on October 22, 2001. The information alleged violations of Rules 4-1.15(a) (failing to safeguard property), 4-8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), 4-1.7 and 4-1.8 (conflicts of interest), and 4-8.4(d) (conduct prejudicial to the administration of justice). A hearing panel heard the case on April 9, 2002. The Panel issued its decision on June 17, 2002, concluding Respondent had violated numerous rules of professional conduct. The Panel recommended disbarment. Respondent would not join the Chief Disciplinary Counsel in a written stipulation, causing the record to be filed with this Court.

POINT RELIED ON

I.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT BECAUSE HE VIOLATED RULES 4-1.7 AND 4-1.8, 4-1.15, AND 4-8.4(c)(d) IN THAT HE FAILED TO SAFEGUARD CLIENT FUNDS, HIS REPRESENTATION OF THE TRUST CLIENTS WAS MATERIALLY LIMITED BY HIS OWN INTERESTS AND HE LOANED HIMSELF CLIENT MONIES WITHOUT CLIENT ADVICE AND CONSENT, AND HIS CONDUCT TOWARD THE TRUST CLIENTS INVOLVED DECEIT AND MISREPRESENTATION AND WAS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE

In re Griffey, 873 S.W.2d 600 (Mo. banc 1994)

In re Lowther, 611 S.W.2d 1 (Mo. banc 1981)

In re Snyder, 35 S.W.3d 380 (Mo. banc 2000) (per curiam)

Rule 1.7

Rule 1.8

Rule 1.15

Rule 4-8.4(c)(d)

POINT RELIED ON

II.

THE SUPREME COURT SHOULD DISBAR RESPONDENT BECAUSE HE KNOWINGLY VIOLATED DUTIES TO HIS CLIENTS AND CESTUIS QUE TRUST IN THAT HE ENGAGED IN SELF-DEALING, WAS DECEITFUL, PUT CLIENT FUNDS AT RISK, AND VIOLATED THE TRUST REPOSED IN HIM BY CLIENTS AND CESTUIS, THEREBY INJURING THE CLIENTS AND THE LEGAL PROFESSION

In re Griffey, 873 S.W.2d 600 (Mo. banc 1994)

In re Witte, 615 S.W.2d 421 (Mo. banc 1981), appeal dismissed, cert. denied, 454 U.S. 1025 (1982)

In re Conrad, 340 Mo. 582, 105 S.W.2d 1 (Mo. banc 1937)

A.B.A. Standards for Imposing Lawyer Sanctions (1991 ed.)

ARGUMENT

I.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT BECAUSE HE VIOLATED RULES 4-1.7 AND 4-1.8, 4-1.15, AND 4-8.4(c)(d) IN THAT HE FAILED TO SAFEGUARD CLIENT FUNDS, HIS REPRESENTATION OF THE TRUST CLIENTS WAS MATERIALLY LIMITED BY HIS OWN INTERESTS AND HE LOANED HIMSELF CLIENT MONIES WITHOUT CLIENT ADVICE AND CONSENT, AND HIS CONDUCT TOWARD THE TRUST CLIENTS INVOLVED DECEIT AND MISREPRESENTATION AND WAS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE

Mr. Willis' conduct crossed numerous serious ethical lines. Respondent set himself up as trustee of the LaVaughn Ikemeier Roden Cox trust, then proceeded on a course of self-dealing with trust assets that deprived the trust, and the beneficiaries, of some $35,141, and caused the beneficiaries, already stung by one trustee/attorney's misconduct, to have to retain and pay yet more lawyers to untangle the mess. Regardless of whether one accepts Respondent's "advance accrual of fees" theory or his "loan" explanation regarding his withdrawal of trust funds, the bottom line is that Respondent violated Rule 4-1.15 by failing to safeguard property belonging to clients or third parties. See *In re Griffey*, 873 S.W.2d 600, 602 (Mo. banc 1994); *In re Starr*, 538 S.W.2d 334, 335 (Mo. banc 1976) (per curiam); *State Bar Committee v. Stumbaugh*, 123 S.W.2d 51, 52 (Mo. 1938). Respondent failed to safeguard client property by withdrawing client funds, depositing them in his personal account, and spending the money for his own purposes.

Respondent has acknowledged that he wrote himself checks out of the trust's two accounts at the rate needed to meet his household expenses. The withdrawals were not in accordance with any kind of accounting Respondent was keeping of his time spent on the case. Even putting the best spin on Respondent's conduct, this Court has warned lawyers against engaging in self-dealing with clients. "The attorney, with his superior knowledge and education, can pursue this course only at his peril. It is an area wrought with pitfalls and traps and the Court is without choice other than to hold the attorney to the highest of standards under such circumstances." *In re Lowther*, 611 S.W.2d 1, 2 (Mo. banc 1981). So, even assuming Respondent had the purest of motives, i.e., to save the trust capital gains taxes or to invest the money by "loaning" it to himself, Respondent's conduct was reprehensible[2]. It is made even more so given Respondent's longstanding status as a

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[2] Respondent argued to the disciplinary hearing panel that his misconduct was committed while he was in the role of trustee, not while he was acting as an attorney. **T.** 94. Because Respondent was wearing both hats simultaneously throughout the course of conduct at issue, and because the Rule 4-1.15 misconduct (applicable to a lawyer/client relationship) is equally prohibited and sanctionable under Rule 4-8.4(c)(d), it is a distinction without a difference.

special representative to one of this Court's regional disciplinary committees at the very time he was engaging in these shenanigans.

In some circumstances self-dealing can be ameliorated by full disclosure and the client's knowledgeable consent. In this case, however, Respondent neither sought consent nor even disclosed to the beneficiaries what he was doing. Before Respondent revealed the promissory note in October of 1999, the closest he had come to disclosing what was going on was the mention to Frank Ikemeier that the trust's capital gains tax liability could be offset by "accruing" Respondent's anticipated legal fees into the relevant tax year. The lack of specificity and detail in that discussion does not equate to the kind of disclosure implicit in Rules 4-1.7 and 4-1.8. Certainly, without disclosure there can be no consent to the self-dealing that so commonly follows on the heels of the blatant conflicts of interest presented by these facts. Respondent's representation of the trust and his actions as trustee were materially limited by his desperate need for money, all in violation of Rule 4-1.7(b). And, Respondent loaned himself client money without disclosing the transaction or its terms, much less making such disclosure in writing. Obviously, the client had no opportunity to seek the advice of independent counsel about the transaction. Respondent completely and conveniently avoided the special scrutiny mandated by Rule 4-1.8(a) for business transactions with clients. <u>See</u> *In re Snyder*, 35 S.W.3d 380, 383 (Mo. banc 2000) (per curiam).

Finally, Respondent violated Rules 4-8.4(c) and (d) by deceiving his clients about what he was doing. Respondent admitted in his testimony that he never told any of his clients about the "loan" or promissory note until pressed for information by Frank

Ikemeier in October of 1999. When Ms. Cox died in March of 1999, Respondent characterized the money he had withdrawn for his own use as money "invested in an instrument" that could not immediately be liquidated. He further testified that every time thereafter that Mr. Ikemeier questioned him about the as yet undistributed trust assets, Respondent deflected the questions by suggesting that the information was in a different location. Clearly, Respondent deliberately misled the beneficiaries, with whom he was in a fiduciary relationship both as their lawyer and as a trustee. Respondent's conduct further delayed the administration of an already mishandled (by another lawyer) trust and further eroded the integrity of the legal system.

ARGUMENT

II.

THE SUPREME COURT SHOULD DISBAR RESPONDENT BECAUSE HE KNOWINGLY VIOLATED DUTIES TO HIS CLIENTS AND CESTUIS QUE TRUST IN THAT HE ENGAGED IN SELF-DEALING, WAS DECEITFUL, PUT CLIENT FUNDS AT RISK, AND VIOLATED THE TRUST REPOSED IN HIM BY CLIENTS AND CESTUIS, THEREBY INJURING THE CLIENTS AND THE LEGAL PROFESSION

The Chief Disciplinary Counsel joins in the disciplinary hearing panel's recommendation that Respondent be disbarred. Disbarment is the appropriate sanction when the facts of this case are subjected to the analytical framework of the A.B.A.'s Standards for Imposing Lawyer Sanctions (1991 ed.). Respondent violated duties to clients, the greatest of ethical obligations that a lawyer holds, id. at 5, and duties to the legal profession. There is no question but that Respondent acted knowingly. Respondent's conduct caused financial injury to his clients inasmuch as he withdrew more than $29,000 from trust assets to which he was not entitled and cause them to expend in excess of $8,000 in lawyer fees to attorneys the clients had to employ to rectify

Respondent's misconduct.[3] And, finally, the injury to the integrity of our profession should not be marginalized.

Rule 4.11 of the A.B.A. Standards states that "Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client." Accord *In re Griffey*, 873 S.W.2d 600 (Mo. banc 1994); *In re Kohlmeyer*, 327 S.W.2d 249 (Mo. banc 1959). Similarly, intentional failure to separate the lawyer's own property from that of his clients is sanctionable by disbarment. *In re Witte*, 615 S.W.2d 421 (Mo. banc 1981), appeal dismissed, cert. denied, 454 U.S. 1025 (1982). Of course, here Respondent deliberately put client funds in his personal account and spent it, as distinguished from the scenario whereby a lawyer fails to remove his fee from an escrow account, thereby putting the escrow account at risk.

The record is not subject to any interpretation but that Respondent knowingly withdrew substantial trust funds far in excess of any amount he may have earned without disclosing what he was doing and obtaining the knowledgeable consent of his clients. Respondent knew full well that what he was doing was wrong. He testified that he knew

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[3] Respondent stated at the hearing that he was "overwhelmed" that his former clients would pay so much in attorney's fees to ascertain how much he owed them when he had promised to pay the money back to begin with. Respondent even implied that the lawyers overcharged the Ikemeiers. **T.** 95, 98. Just why Respondent believes that the former clients should have trusted Respondent's calculations and promises at that juncture is the truly overwhelming question.

he lacked the assets to back up the "loan," and that he did not disclose the promissory note until he had no other choice because the transaction made him anxious and embarrassed. Respondent acknowledged that the transaction was self-dealing, a "poor investment," and that he had a conflict of interest. A lawyer should not be able to sidestep disbarment under circumstances such as these by labeling the "transaction" a "loan" that he optimistically hoped to repay before being found out.

It may be tempting to look at a case like this and conclude that a sanction less than disbarment is warranted because, once Respondent was found out and lawyers were paid to calculate how much Respondent owed the clients, Respondent stipulated to a judgment against himself and relatively promptly repaid the clients. The A.B.A. Standards, however, take the position that compelled restitution should not be considered as either an aggravating or mitigating factor in sanctions analysis. Rule 9.4(a) A.B.A. Standards for Imposing Lawyer Sanctions (1991 ed.) Non-compelled restitution is not listed as a mitigating factor, A.B.A. Rule 9.32, although indifference (not present here) to making restitution can be an aggravating factor.

Even more to the point, this Court has clearly and logically reasoned that "since the theory of the law is that disbarment proceedings are not for the purpose of redressing the wrongs done the injured person nor for the punishment of the delinquent attorney," restitution should have no bearing in a disciplinary case. *In re Conrad*, 340 Mo. 582, 105 S.W.2d 1, 13 (Mo. banc 1937). See also *In re Schaeffer*, 824 S.W.2d 1, 5 (Mo. banc 1992). Additionally, it must be remembered that the sum Respondent paid the Ikemeiers did not include the attorney fees the brothers paid Susman, Schermer ($8,000 - $10,000) and presumably Gary Paul (amount not in the record) for helping them resolve their claims against Respondent.

Factors that the Court should consider in aggravation of the sanction are Respondent's dishonest and selfish motive, the vulnerability of his victims (twice mistreated by lawyers/trustees), and Respondent's very substantial experience and expertise in both trust and ethics law. That final aggravating factor is particularly humbling to lawyers who work in the disciplinary system, but brings home the regard, sincerity, and high standards that all lawyers, particularly those of us in the disciplinary system, must maintain for our profession's ethics rules. Having egregiously violated those rules, Respondent should be disbarred.

CONCLUSION

Respondent has committed professional misconduct by withdrawing trust monies substantially in excess of that to which he was entitled as fees, placing he money in his personal account and spending it, deceiving his clients about what he was doing, and purporting to transact business with the clients' money without advising and obtaining the consent of the clients. Rules 4-1.7, 4-1.8, 4-1.15, 4-8.4(c)(d). Disbarment is the appropriate sanction owing to the seriousness of the offenses and the presence of many aggravating factors.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this _______ day of September, 2002, two copies of Informant's Brief have been sent via First Class mail to:

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Sharon K. Weedin

CERTIFICATION: SPECIAL RULE NO. 1(c)

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;

2. Complies with the limitations contained in Special Rule No. 1(b);

3. Contains 4,779 words, according to Microsoft Word 97, which is the word processing system used to prepare this brief; and

4. That Norton Anti-Virus software was used to scan the disk for viruses and that it is virus free.

____
Sharon K. Weedin