

**Electronically Filed
Supreme Court
SCAD-18-0000323
10-JUL-2018
10:50 AM**

SCAD-18-0000323

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

vs.

PHILIP M. KLEINSMITH,
Respondent.

ORIGINAL PROCEEDING
(ODC 17-O-267)

ORDER OF DISBARMENT

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson JJ.)

Upon consideration of the petition for issuance of a reciprocal discipline notice upon Respondent Philip Martin Kleinsmith, filed on April 10, 2018 by the Office of Disciplinary Counsel (ODC) pursuant to Rule 2.15(b) of the Rules of the Supreme Court of the State of Hawai'i (RSCH), and the memorandum and exhibits appended thereto, and the record in this matter, we find that, on December 21, 2016, the Supreme Court of the State of Colorado entered an order, disbarring Respondent Kleinsmith, effective December 23, 2016, having concluded Kleinsmith had converted more than \$55,000.00 in funds owed to a title company to

pay expenses for his law firm, and having found, in aggravation, that Kleinsmith had substantial experience in the practice of law, had previously been disciplined, exhibited a dishonest and selfish motive, engaged in a pattern of misconduct, refused to acknowledge the wrongful nature of his conduct, and was indifferent to making restitution, conduct which, if committed in this jurisdiction, would constitute violations of Rules 1.15(a) and 8.4(c) of the Hawai'i Rules of Professional Conduct (2014). We further find that the record in this matter establishes that service of a Notice and Order was properly made upon Respondent Kleinsmith on April 25, 2018 at the address Respondent Kleinsmith has registered with the Hawai'i State Bar Association for service of process and, therefore, that Respondent Kleinsmith had until May 25, 2018 to show cause as to why reciprocal discipline in this jurisdiction is unwarranted. Respondent Kleinsmith has failed to respond to the Notice and Order, and a review of the record and precedent demonstrates, pursuant to RSCH Rules 2.15(c) and (d), that reciprocal discipline is authorized and justified. Therefore,

IT IS HEREBY ORDERED that Respondent Philip Martin Kleinsmith is disbarred from the practice of law in this jurisdiction, pursuant to RSCH Rules 2.3(a)(1) and 2.15(c). Furthermore, RSCH Rule 2.16(c) notwithstanding, insofar as the record indicates Respondent Kleinsmith is not present in the jurisdiction and is on involuntary inactive status, the disbarment

shall be effective immediately upon entry of this order.

IT IS FINALLY ORDERED that Respondent Kleinsmith is reminded he may not resume the practice of law in this jurisdiction until reinstated by order of this court.

DATED: Honolulu, Hawai'i, July 10, 2018.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

