

DISCIPLINARY BOARD
OF THE
HAWAII SUPREME COURT

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**DISCIPLINARY BOARD
OF THE HAWAI‘I SUPREME COURT**

OFFICE OF DISCIPLINARY
COUNSEL,

Petitioner,

v.

DONNA DAVIS GREEN,

Respondent.

Case No.: ODC 13-009-9079

**DECISION AND PUBLIC ORDER
OF DISCIPLINE; CERTIFICATE
OF SERVICE**

DECISION AND PUBLIC ORDER OF DISCIPLINE

Pursuant to RSCH 2.2 et. seq., and DBR 24,¹ this matter came before the DISCIPLINARY BOARD OF THE HAWAI‘I SUPREME COURT (“Board”) on January 30, 2014. Yvonne R. Shinmura, Acting Deputy Chief Disciplinary Counsel, appeared on behalf of Petitioner, Office of Disciplinary Counsel (“Petitioner” or “ODC”); Gregory L. Ryan appeared via telephone conference call on behalf of Donna Davis Green (“Respondent”), with Respondent personally present in the boardroom.

¹ Unless otherwise noted, “RSCH” indicates the Rules of the Supreme Court of Hawaii, and “DBR” indicates the Rules of the Disciplinary Board of the Hawaii Supreme Court.

After hearing and deliberation, the Board DECIDED to accept and adopt, with one minor correction as noted below, that Settlement Agreement, Stipulation of Facts, Conclusions of Law, and Recommendation for Discipline (“Stipulation”), filed on November 25, 2013 (DBF-1), which was the result of the parties participation in a Voluntary Settlement conference conducted by Board Member and Settlement Officer Shelton G.W. Jim On.

The minor correction to the Stipulation is at page 9 therein where the quote attributed to HRPC 5.3(c) (2012) is corrected to read: “(c) A 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: ...”

This matter is no longer Confidential pursuant to RSCH 2.22(a)(7).

The Board has concluded that Respondent committed multiple violations of the Hawai‘i Rules of Professional Conduct (“HRPC”)², specifically:

1. By depositing unearned client funds into her business account, rather than into her client trust account, Respondent misappropriated and commingled client funds in violation of HRPC Rule 1.15.

2. By withdrawing from client trust, between 2008 and 2013 on six separate occasions, unearned fees from her client’s trust account, and depositing

² All references to HRPC are to the rules in effect immediately prior to January 1, 2014.

those unearned fees into her business account, Respondent committed further and multiple acts of misappropriation and commingling in violation of HRPC 1.15.

3. By attempting to delegate to her bookkeeper, her non-delegable fiduciary duty to account for client funds, between 2007 and 2010, and by failing to properly supervise that bookkeeper, and by failing to perform monthly and quarterly reconciliations, and by failing to maintain required trust account records during those years, Respondent violated HRPC Rules 5.3 and 1.15.

4. By failing to perform monthly and quarterly reconciliations, and failing to maintain the required trust account records thereof, after she resumed control over her client trust account at some time in 2010 and continuing until July 2012, Respondent further violated HRPC Rule 1.15.

5. By violating the foregoing Rules of Professional Conduct, Respondent also violated HRPC 8.4(a).

Therefore, and after weighing matters in aggravation and mitigation, it appearing that a PUBLIC REPRIMAND is warranted,

IT IS HEREBY ORDERED that:

A. Pursuant to RSCH 2.3(a)(4) a PUBLIC REPRIMAND is the appropriate discipline to be imposed upon Respondent, and, pursuant to DBR 27, a PUBLIC REPRIMAND was imposed upon Respondent by the Board on January 30, 2014.

B. Respondent shall file a Declaration from Peniela Rand attesting to the results of her investigation and the cause of Respondent's July 2012 client trust account shortage.³

C. Respondent shall receive educational and instructional direction on client trust account software, and compliance with HRPC 1.15 from the Practicing Attorneys Liability Management Society, Inc. ("PALMS") at her own cost and expense.

D. Respondent shall close her client trust account under the guidance and with the supervision of PALMS by September 15, 2014, subject to any extension of time, as reasonably necessary and approved by the Board Chair in writing.

E. Respondent shall file a report herein, by affidavit, with supporting documentation, attesting to and proving compliance with the foregoing paragraphs B, C and D, not later than October 31, 2014.

F. Pursuant to RSCH 2.3(c), Respondent shall reimburse the Board for all costs related to this proceeding. In this regard, Petitioner shall file a verified bill of costs, with service on Respondent, not later than April 15, 2014. The Board may thereafter enter a separate Order for the payment of such costs.

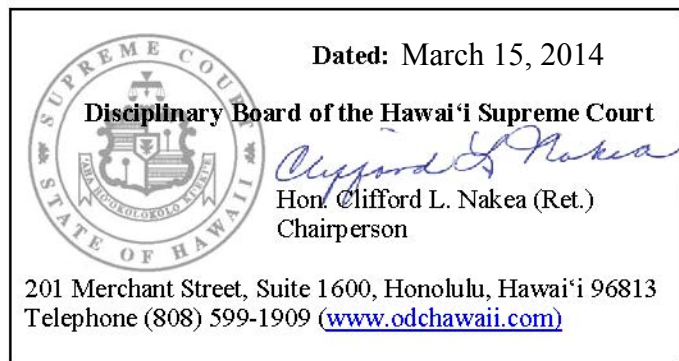
³ The Board notes a Declaration of Peniela Rand, dated October 18, 2013 in the record (DBF-4) and it is unclear if this Declaration is intended to satisfy this element of the stipulated discipline. The parties shall clarify this point in their reports.

G. Petitioner shall monitor Respondent's compliance with the terms of this Order, and not later than November 15, 2014, file a declaration herein, reporting the successful completion of the foregoing requirements by Respondent, or of any failure complete same, attributable to Respondent, along with any appropriate reports or documentation in support thereof.

H. This Decision and Order, pursuant to DBR 27(d) shall constitute a permanent record of the imposition of such a Public Reprimand upon Respondent and be served upon Respondent.

I. Respondent shall also be provided with a copy of the transcript of the formal disciplinary proceedings per DBR 27(b).

J. Pursuant to DBR 27(f), Petitioner shall issue the appropriate press release.



ODC v. Donna Davis Green; ODC No. 13-009-9079

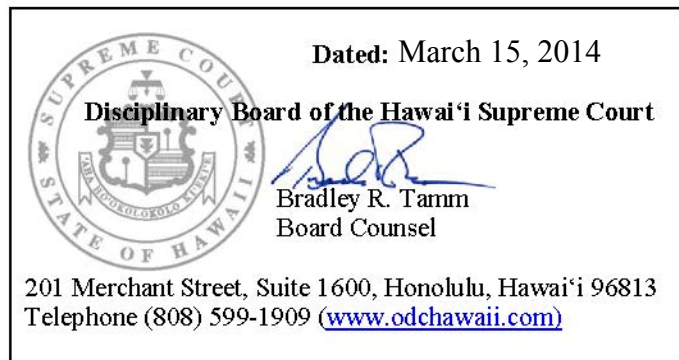
DECISION AND PUBLIC ORDER OF DISCIPLINE

CERTIFICATE OF SERVICE

1. **DECISION AND PUBLIC ORDER OF DISCIPLINE**
2. **TRANSCRIPT OF PROCEEDINGS**

I hereby certify that the foregoing documents were filed with the Clerk of the Disciplinary Board this date, and that service of true and correct copies of same were made on the parties identified in the below service list by either:

- 1) regular U.S. Mail, postage prepaid, or
- 2) hand delivery



SERVICE LIST:

<i>Party</i>	<i>1) by US mail</i>	<i>2) hand delivery</i>
Gregory L. Ryan, Greg Ryan & Assoc. 1003 Bishop St., Ste. 1110 Honolulu, HI 96813 Attorneys for Respondent Courtesy copy to: greg@gregryanlaw.com	<input type="checkbox"/>	<input type="checkbox"/>
YVONNE R. SHINMURA Acting Deputy Chief Disciplinary Counsel 201 Merchant Street, Suite 1600 Honolulu, Hawai'i 96813 Attorneys for Petitioner Courtesy copy to: yvonne@odchawaii.com	<input type="checkbox"/>	<input checked="" type="checkbox"/>