

**Electronically Filed
Supreme Court
SCAD-18-0000603
28-FEB-2019
12:58 PM**

SCAD-18-0000603

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

vs.

ARNOLD T. PHILLIPS II,
Respondent.

ORIGINAL PROCEEDING
(ODC 16-0-93)

ORDER

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

Upon consideration of the Report and Recommendation of the Disciplinary Board of the Supreme Court of the State of Hawai'i, the arguments of the parties, and the record as a whole, we conclude Respondent Phillips failed to take action in a client matter, failed to timely comply with a request to provide client files to successor counsel, knowingly deposited a retainer check into his business account rather than his client trust account, thereby briefly misappropriating \$247.50 in client funds, failed to provide the client an amended accounting for twenty months, and, from 2007 through 2015, held his business account as a joint

account with an individual who was not a licensed attorney in this jurisdiction, in violation of Rules 1.1, 1.3, 1.4(a)(4), 1.5(b), 1.15(a), 1.15(c), 1.15(d), and 1.16(d) of the Hawai'i Rules of Professional Conduct (HRPC) (2014) and Rule 1.15(a)(2) of the Hawai'i Rules of Professional Conduct (1994). We also find that Respondent Phillips, when notified of the foregoing misconduct, admitted wrongdoing, expressed remorse, and took steps to address deficiencies in his practice underlying the misconduct.

In aggravation, we find Respondent Phillips has received three previous Private Informal Admonitions, committed multiple violations in the present matter, and has substantial experience in the practice of law while, in mitigation, we find the previous discipline remote in time, and find that Respondent Phillips fully and freely disclosed information to the Office of Disciplinary Counsel, was cooperative during the disciplinary process, lacked a dishonest or selfish motive, has demonstrated sincere remorse, and has a good reputation in the community. Therefore,

IT IS HEREBY ORDERED that, pursuant to Rule 2.3(a)(4) of the Rules of the Supreme Court of the State of Hawai'i, the Disciplinary Board shall impose, with the consent of the Disciplinary Counsel and Respondent Phillips, a public reprimand on Respondent Phillips.

IT IS FURTHER ORDERED that, within thirty days from the date of this order, the Disciplinary Board shall file in the record a notice that the discipline was imposed or that the Disciplinary Counsel and/or Respondent Phillips declined to consent to the discipline.

IT IS FURTHER ORDERED that, should both parties consent to the public reprimand, the following conditions are imposed upon Respondent Phillips, pursuant to Rule 2.3(d) of the Rules of the Supreme Court of the State of Hawai'i.

IT IS FURTHER ORDERED that Respondent Phillips shall submit to the Disciplinary Board of the Hawai'i Supreme Court and the Office of Disciplinary Counsel, within twelve months after the entry date of this order, proof of his successful completion of the Multi-State Professional Responsibility Exam.

IT IS FURTHER ORDERED that Respondent Phillips shall submit to an audit of his client trust and business accounts, conducted by the Practicing Attorneys' Liability Management Society (PALMS) or an equivalent organization, within six months after the entry date of this order, and, within 30 days of the completion of the audit, provide the Disciplinary Board and the Office of Disciplinary Counsel an affidavit or a declaration attesting to its successful completion and, thereafter, provide reports every three months, to PALMS and the Office of Disciplinary Counsel, for twenty-four months, following

completion of the audit.

IT IS FURTHER ORDERED that Respondent Phillips shall, pursuant to Rule 2.3(c) of the Rules of the Supreme Court of the State of Hawai'i, bear the costs of the disciplinary proceedings, upon approval by this court of a timely submitted verified bill of costs from ODC.

IT IS FINALLY ORDERED that the Office of Disciplinary Counsel shall monitor Phillips's compliance with the above conditions and shall submit to this court, at the conclusion of the final quarterly reporting period, a declaration with pertinent information and any related documents regarding Respondent Phillips fulfillment of the above conditions of his discipline. Respondent Phillips is reminded that failure to complete any of the conditions could result in additional disciplinary proceedings against him.

DATED: Honolulu, Hawai'i, February 28, 2019.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

