

**Electronically Filed
Supreme Court
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SCAD-12-00001034

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

KEONI K. AGARD, Respondent.

ORIGINAL PROCEEDING

(ODC 10-051-8885, 10-078-8912, 11-076-9000, 12-006-9022)

ORDER OF SUSPENSION

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

Upon consideration of the Report and Recommendation of the Disciplinary Board of the Supreme Court of the State of Hawai'i, the stipulated facts, and the evidence in the record, it appears that Respondent Keoni K. Agard deposited client funds directly into a business account that was not an approved IOLTA account, thereby commingling client funds with his own, allowed the balance in the account to fall below the sum covered by the deposited client funds, thereby misappropriating client funds, failed to timely refund one client's retainer, and negotiated an agreement with the same client for a refund in exchange for the withdrawal of the client's complaint lodged with the Office of Disciplinary Counsel, thereby violating Rules 1.15(c), 1.15(d),

1.15(f) (4), and 8.3(d) (2) (i) of the Hawai'i Rules of Professional Conduct (HRPC). In aggravation, this court finds Respondent Agard has substantial experience in the practice of law, and committed multiple ethical violations in the present matter. In mitigation, we find an absence of a dishonest or selfish motive in Agard's conduct, and note his clean disciplinary record, his sincere expressions of remorse, his full and free disclosure concerning the circumstances surrounding his misconduct, his timely good faith efforts to rectify the consequences of his misconduct, and his strong reputation for community service. Therefore, in light of the significant mitigating factors and the appropriateness of some period of suspension,

IT IS HEREBY ORDERED that Respondent Keoni K. Agard is suspended from the practice of law in this jurisdiction for a period of 30 days, effective 30 days after the date of entry of this order, as provided by Rules 2.3(a) (2) and 2.16(c) of the Rules of the Supreme Court of the State of Hawai'i (RSCH).

IT IS FURTHER ORDERED that Respondent Agard shall submit to this court within 90 days after the date of entry of this order proof of completion of a financial practices course and audit conducted by the Practicing Attorneys Liability Management Society.

IT IS FURTHER ORDERED that, in addition to any other requirements for reinstatement imposed by the Rules of the

Supreme Court of the State of Hawai'i, Respondent Agard shall pay all costs of these proceedings as approved upon the timely submission of a bill of costs, as prescribed by RSCH Rule 2.3(c).

IT IS FURTHER ORDERED that Respondent Agard shall, within ten days after the effective date of his suspension, file with this court an affidavit in full compliance with RSCH Rule 2.16(d).

DATED: Honolulu, Hawai'i, February 5, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

