

IN THE SUPREME COURT OF THE STATE OF DELAWARE

In the Matter of a Member §
of the Bar of the Supreme Court §
of the State of Delaware: § No. 90, 2000
 §
 KENNETH E. FINK, § Board Case No. 39, 1999
 §
 Respondent. §

Submitted: March 7, 2000

Decided: March 7, 2000

Before VEASEY, Chief Justice, WALSH and HOLLAND, Justices.

ORDER

This 7th day of March 2000, it appearing that:

(1) The Office of Disciplinary Counsel filed a petition for interim suspension, alleging that the Respondent, Kenneth E. Fink (the “Respondent”), a member of the Bar of the State of Delaware had misappropriated certain funds belonging to a client, in violation of the Delaware Lawyers’ Rules of Professional Conduct.

(2) Respondent appeared, with counsel, at a hearing this date and, for the purposes of the hearing, admitted the allegations of the petition. Respondent argued, however, that the imposition of an interim suspension would create hardship for his clients.

(3) After consideration of the evidence presented and the arguments of counsel, the Court concludes that the Respondent has diverted a client's funds to his personal use. The conversion of a client's funds is an act of dishonesty and deceit proscribed by Rule 8.4 of the Delaware Lawyers Rules of Professional Conduct (DLRPC). *Matter of Agostini*, Del. Supr., 632 A.2d 80, 81 (1993).

(4) Where the Court is requested to impose an interim suspension it must be satisfied that the respondent lawyer "poses a substantial threat of irreparable harm to his clients, or prospective clients, or the orderly administration of justice." Board on Professional Responsibility Rule 17(a). In assessing the risk of irreparable harm this Court must act with fairness to the Respondent who has not yet been afforded the full opportunity of contesting the charges against him through the disciplinary process. At the same time this Court's disposition must "protect the interests of the public and the orderly administration of justice." Board Rule 16(d)(3). The Court is satisfied that there is a genuine need to protect the public from the risk of further harm by the Respondent.

NOW, THEREFORE, IT IS ORDERED that:

(1) The Respondent is prohibited and suspended from engaging in the practice of law as a member of the Delaware Bar until further order of this Court.

(2) During the period of interim suspension, the Respondent shall not: (a) share in any legal fees arising from clients or cases referred by him during the period of suspension to any other lawyer or (b) share in any legal fees earned for services by others during such period of suspension.

(3) The Office of Disciplinary Counsel shall file forthwith a petition in the Court of Chancery for the appointment of a Receiver for Respondent's law practice.

(4) The Respondent shall comply with the provisions of Rule 24 of the Rules of the Board on Professional Responsibility.

(5) The Receiver shall make such arrangements as may be necessary to protect the interests of any of the Respondent's clients.

(6) The disciplinary charges against Respondent shall be expedited before the Board on Professional Responsibility and Disciplinary Counsel shall report this matter to the Delaware Department of Justice.

(7) This Order shall be disseminated by Disciplinary Counsel in accordance with Rules 3 and 14 of the Rules of the Board on Professional Responsibility.

BY THE COURT:

s/Joseph T. Walsh
Justice