

In the Supreme Court of Georgia

Decided: OCT 19 2009

S10Y0122. IN THE MATTER OF MARSHALL DEWEY BAIN

PER CURIAM.

Marshall Dewey Bain has petitioned this Court for the voluntary surrender of his license to practice law in this state. The State Bar of Georgia has no opposition to the petition and asks the Court to accept it.

In his petition, Bain admits he represented a client in a probate proceeding in Texas concerning the estate of her deceased father and, as a result of that proceeding, certain estate property, including cash, was distributed to the client. While still acting as the client's counsel, Bain agreed to act as her financial advisor in which capacity he advised her as to the investment of her money, including the funds she inherited from her father. During that time frame, Bain created for the client and her daughters several trusts to serve as vehicles for the investment of their money. Bain served as trustee for those trusts. At the same time, Bain owned certain promissory notes from third-parties and he advised his client to accept assignment of those notes from him, assuring her they were secured by real estate or other valuable property. Bain also borrowed money from the client to provide funds for a company for which

Bain served as chief executive officer. As of December 2008, Bain reported to the client that the various trusts he had created for her and her daughters had a total value of approximately \$600,000, but by February 2009, those same trusts had no value because of the default and subsequent bankruptcy of the makers of the notes. In July 2009, Bain filed a voluntary bankruptcy petition listing the client as an unsecured creditor with a claim valued at \$1,000,000. Bain admits his own financial interests materially and adversely affected his representation of the client and he therefore violated Rule 1.7 of the Rules of Professional Conduct, see Bar Rule 4-102 (d).

Having reviewed the record, we agree that surrender of Bain's law license, which is tantamount to disbarment, is the appropriate sanction. Accordingly, we accept Bain's petition for voluntary surrender of his license and hereby order that the name of Marshall Dewey Bain be removed from the rolls of persons entitled to practice law in the State of Georgia. Bain is reminded of his duties under Bar Rule 4-219 (c).

Voluntary Surrender of License accepted. All the Justices concur.