

In the Supreme Court of Georgia

Decided:

MAY 3 1999

S99Y1011. IN THE MATTER OF M. RANDALL PEEK

PER CURIAM.

The State Bar filed a Formal Complaint against Respondent M. Randall Peek alleging violations of Standards 65 (D) (withdrawal of funds from an attorney trust account for personal use) and 65 (A) (failure to account for trust property held in a fiduciary capacity) of Bar Rule 4-102 (d). Upon Peek's failure to file a timely answer to the Formal Complaint after the State Bar perfected service by publication pursuant to Bar Rule 4-203.1 (a) and (b) (3) (ii), Peek was in default and subject to the discipline of this Court. Further, pursuant to Bar Rule 4-212 (a), the facts alleged and violations charged in the Formal Complaint are deemed admitted by Peek. The special master appointed by the court pursuant to Bar rule 4-209 has

recommended disbarment as the appropriate sanction for Peek's violations of Standards 65 (D) and 65 (A).

Both violations arise from Peek's IOLTA account at SunTrust Bank of Atlanta. In one instance Peek issued a check on his trust account for his personal business, and in another instance Peek issued a check on his trust account on behalf of a client against insufficient funds in the account. By his conduct regarding his trust account, Peek has violated Standards 65 (D) and 65 (A) of Bar Rule 4-102 (d).

We conclude that each violation by Peek noted above warrants the discipline of disbarment on its own merit. Moreover, we find in aggravation that Peek has substantial experience in the practice of law, having been admitted in 1970 and having once served as the District Attorney for the Stone Mountain Judicial Circuit; Peek previously was suspended for six months, also for violating Standard 65 (see In the Matter of M. Randall Peek, 257 Ga. 349 (359 SE 2d 677) (1987)); and Peek obstructed this disciplinary proceeding by failing to comply with the Bar Rules for responding to disciplinary proceedings.

As recommended by the special master, we hold that disbarment is warranted as a result of Peek's violations of Standards 65 (D) and 65 (A) of Bar Rule 4-102 (d). Accordingly, Peek is disbarred from the practice of law in the State of Georgia. He is reminded of his duties under Bar Rule 4-219 (c).

Disbarred. All the Justices concur.