

In the Supreme Court of Georgia

Decided: July 5, 2015

S15Y1050. IN THE MATTER OF RUSS FLOYD BARNES.

PER CURIAM.

This disciplinary proceeding is before the Court on the Report of the Special Master, William Harry Mills, in which he recommends that the Court accept the Petition for Voluntary Surrender of License filed by Respondent Russ Floyd Barnes (State Bar No. 039015). The State Bar filed a Formal Complaint against Barnes alleging violations of Bar Rules 1.15 (I) (a) and (c), 1.15 (II) (b) and 8.4 (a) (4) of the Georgia Rules of Professional Conduct, see Bar Rule 4-102 (d). Barnes initially submitted a petition for voluntary discipline seeking a suspension, but prior to the special master's report, other issues were revealed regarding Barnes' conduct. He then submitted the petition for voluntary surrender of license admitting to violating Rules 1.15 (II) (a) and (b). The State Bar filed a response stating that the interests of the public and State Bar would be best served by acceptance of Barnes' petition.

In the petition Barnes admits that he withdrew approximately \$275,000 from his law firm's trust account for his personal use, though the funds did not

belong to him. He admits he held the funds in a fiduciary capacity and the funds he took were not earned fees. Barnes asserts that he replaced the funds so no clients were harmed, but the special master noted that this is only an assertion and there is no documentation to support that assertion. The special master found that whether the funds have been replaced is not controlling, given the other admissions, and that clients are harmed even if all funds are returned or the clients have not complained to the State Bar, see In the Matter of Henley, 267 Ga. 366, 369 (478 SE2d 134) (1996) (“Contrary to Henley’s arguments, the fact that the client is a close friend of Henley’s and does not object to Henley’s conduct does not negate Henley’s violations of professional standards.”). The special master recommended accepting Barnes’ petition for voluntary surrender of license.

We have reviewed the record and agree to accept Barnes’ petition for the voluntary surrender of his license under Bar Rule 4-110 (f), which is tantamount to disbarment. Accordingly, the name of Russ Floyd Barnes hereby is removed from the rolls of persons entitled to practice law in the State of Georgia. He is reminded of his duties under Bar Rule 4-219 (c).

Voluntary surrender of license accepted. All the Justices concur.