

JUL 12 2004

In the Supreme Court of Georgia

Decided:

S04Y1642. IN THE MATTER OF JEFFREY N. SCHWARTZ.

PER CURIAM.

This matter is before the Court on Respondent Jeffrey N. Schwartz' Petition for Voluntary Discipline filed pursuant to the provisions of State Bar Rule 4-227 (b) (2) prior to the State Bar's filing of a Formal Complaint. In his petition, Schwartz seeks the imposition of an 18-month suspension retroactive to May 9, 2003 for his admitted violations of Rule 8.4 (a) (4) of the Georgia Rules of Professional Conduct, see Bar Rule 4-102 (d). Although a violation of Rule 8.4 (a) (4) is punishable by disbarment, the State Bar recommended the acceptance of Schwartz' voluntary petition and this Court agrees.

In his petition, Schwartz admits that between the Fall of 2001 and March 2003, he accessed, listened to, and randomly deleted voice mail messages left on the voice mail system of his former employer, an Atlanta law firm which discharged him in August 2001. Upon being confronted with his actions, Schwartz resigned his position at his current law firm and voluntarily ceased practicing law as of May 9, 2003. He also sought help from a licensed psychologist, wrote a letter of apology to his former firm, and cooperated fully with investigating authorities. He admits that his conduct was in violation of Rule 8.4 (a) (4). In mitigation, we note that Schwartz has no prior or subsequent incidents of inappropriate behavior related to his professional conduct; appears to be well-respected by other members of the Bar; has been forthright in his dealings with the State Bar regarding this matter; and has demonstrated contrition and remorse. There do not appear to be any cases directly applicable to the facts of this case; however, we agree with the State Bar that suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession, and causes injury or potential injury to a client, the public, or the legal profession. Accordingly, we agree that an 18-month suspension retroactive to May 9, 2003, is an appropriate sanction in this

case and we accept Schwartz' petition for voluntary discipline. Schwartz hereby is suspended from the practice of law in Georgia for a period of 18 months, nunc pro tunc to May 9, 2003. He is reminded of his duties under Bar Rule 4-219 (c).

Eighteen-month suspension, nunc pro tunc to May 9, 2003. All the

Justices concur.