

In the Supreme Court of Georgia

Decided: **JUN 28 2004**

S04Y1586. IN THE MATTER OF RICHARD KENNETH CAPPS.

PER CURIAM.

This matter is before the Court on Respondent Richard Kenneth Capps' Petition for Voluntary Surrender of License filed pursuant to Bar Rules 4-110 (f) and 4-227 (b) (2). In his petition, Capps admits that he violated Rules 1.3; 1.4; 1.15 (I); and 8.4 of the Georgia Rules of Professional Conduct, see Bar Rule 4-102 (d). The State Bar recommends the Court accept the petition as being in the best interests of the public. We agree.

Capps admits that he was the closing attorney for a client's two real estate transactions in October 2003 but he failed to pay taxes or homeowner's insurance on the properties, thus causing them to be the subject of foreclosure proceedings. The client was forced to pay additional fees to have his taxes and insurance brought current. Similarly, in May 2003 Capps represented another client in the purchase of his home, pursuant to which the client was due a refund for overpayment. Capps wrote a check from his operating account, which was

returned for insufficient funds, and then wrote a check from his trust account, which also was not honored. Capps has not refunded the client's money. Although he represented in the client's settlement statement that he paid the title insurance, Capps' agency had been suspended. He had no authority to issue title insurance and did not pay the premium; thus, the title company had no obligation for the insurance. Capps subsequently reimbursed the client for the amount on the settlement statement. Additionally, four checks issued in March 2003 from Capps' trust account were overdrafts. Finally, Capps closed the sale of a third client's house but did not send the payoff funds of over \$93,000 to the bank. Capps admits that his conduct in these matters violated the Bar Rules and accordingly, he proposes to voluntarily surrender his license to practice law, which is tantamount to disbarment.

We have reviewed the record in this matter and agree that accepting Capps' petition is the proper action for his violations of the Georgia Rules of Professional Conduct. Therefore, the name of Richard Kenneth Capps hereby is removed from the rolls of persons authorized to practice law in the State of Georgia. He is reminded of his duties under Bar Rule 4-219 (c).

Petition for Voluntary Surrender of License accepted. All the Justices concur.