

OFFICE OF DISCIPLINARY COUNSEL v. BERTRAM.

[Cite as *Disciplinary Counsel v. Bertram*, 1999-Ohio-440.]

Attorneys at law—Misconduct—Permanent disbarment—Misappropriation of funds from escrow accounts for personal benefit—Conviction for wire fraud and aiding and abetting wire fraud.

(No. 98-2638—Submitted January 27, 1999—Decided March 17, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 97-76.

{¶ 1} In June 1998, respondent, William H. Bertram, Jr. of Greenville, Ohio, Attorney Registration No. 0016672, was convicted of two federal felonies. As a result of his convictions, we suspended respondent for an interim period in accordance with Gov.Bar R. V(5)(A)(4). *In re Bertram* (1998), 82 Ohio St.3d 1465, 696 N.E.2d 223. On June 12, 1998, relator, Office of Disciplinary Counsel, filed an amended complaint charging respondent with violating several Disciplinary Rules. Respondent filed an answer admitting most of the allegations of the amended complaint. The parties subsequently submitted the matter to a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”) based on their stipulated facts, exhibits, conclusions, and a joint recommendation.

{¶ 2} Based on the stipulations, the panel found that in 1995 and 1996, respondent was the sole shareholder, director, officer, and legal counsel for Secured Equity Title and Appraisal Agency Corporation, a title insurance agency that had its principal place of business in Greenville, Ohio. The title agency maintained an escrow account consisting of funds given to the agency in trust to facilitate real estate transactions for the agency’s customers, who were buying real property.

Through his ownership and control of the title agency, respondent devised and executed a scheme in which he diverted over four million dollars by wire transfers from the agency's escrow account to his own personal investments and accounts. After a federal information was filed charging him with wire fraud in violation of Section 1343, Title 18, U.S.Code, and aiding and abetting wire fraud in violation of Section 2, Title 18, U.S.Code, respondent entered a guilty plea to the charges. The federal district court convicted respondent of the charged offenses, sentenced him to prison for thirty-three months to be followed by three years of supervised release with conditions, fined him \$50,000, and ordered him to make restitution in an actual amount yet to be determined, but approximately \$2,300,000.

{¶ 3} The panel concluded that respondent's conduct violated DR 1-102(A)(3) (engaging in illegal conduct involving moral turpitude), 1-102(A)(4) (engaging in conduct involving fraud, deceit, or misrepresentation), and 1-102(A)(6) (engaging in conduct that adversely reflects on fitness to practice law). The parties presented no mitigating evidence, and they stipulated that disbarment was the appropriate sanction. The panel recommended that respondent be permanently disbarred from the practice of law in Ohio. The board adopted the findings, conclusions, and recommendation of the panel.

Jonathan E. Coughlan, Disciplinary Counsel, and *Lori J. Brown*, First Assistant Disciplinary Counsel, for relator.

William H. Bertram, Jr., pro se.

Per Curiam.

{¶ 4} We adopt the findings, conclusions, and recommendation of the board. "The continuing public confidence in the judicial system and the bar requires that the strictest discipline be imposed in misappropriation cases." *Cleveland Bar Assn. v. Belock* (1998), 82 Ohio St.3d 98, 100, 694 N.E.2d 897, 899.

Therefore, as respondent concedes, disbarment is the appropriate sanction for respondent's misappropriation of millions of dollars of his business's escrow accounts for his personal benefit. See *Disciplinary Counsel v. DiCarlantonio* (1994), 68 Ohio St.3d 479, 628 N.E.2d 1355, in which we permanently disbarred an attorney for comparable conduct violating DR 1-102(A)(3), 1-102(A)(4), and 1-102(A)(6), and resulting in federal felony convictions. Respondent is hereby permanently disbarred from the practice of law in Ohio. Costs taxed to respondent.

Judgment accordingly.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.
