

1 Miami County Bar Association v. Hallows.

2 [Cite as Miami Cty. Bar Assn. v. Hallows (1997), _____ Ohio St.3d

3 _____.]

4 *Attorneys at law -- Misconduct -- Indefinite suspension -- Failing to*
5 *preserve identity of funds and property of client -- Failing to*
6 *promptly pay or deliver client's funds or properties --*
7 *Neglecting an entrusted legal matter -- Engaging in conduct*
8 *involving moral turpitude -- Engaging in conduct involving*
9 *dishonesty, fraud, deceit, or misrepresentation -- Conduct*
10 *prejudicial to the administration of justice.*

11 (No. 96-2429 -- Submitted December 11, 1996 -- Decided March 26,
12 1997.)

13 ON CERTIFIED REPORT by the Board of Commissioners on Grievances
14 and Discipline of the Supreme Court, No. 95-79.

15 In a complaint filed on October 10, 1995, relator, Miami County Bar
16 Association, charged respondent, L. Craig Hallows of Piqua, Ohio, Attorney
17 Registration No. 0031350, with violations of DR 9-102(B)(3) (preserving
18 identity of funds and property of a client), 9-102(B)(4) (promptly paying or
19 delivering to a client the funds or properties in the possession of the
20 lawyer), 6-101(A)(3) (neglecting an entrusted legal matter), and 1-

1 102(A)(3), (4), and (5) (engaging in conduct involving moral turpitude,
2 dishonesty, fraud, deceit, or misrepresentation, or conduct prejudicial to the
3 administration of justice). On the day of the hearing before a panel of the
4 Board of Commissioners on Grievances and Discipline of the Supreme
5 Court (“board”), respondent withdrew a previously filed answer and
6 admitted all the allegations of the complaint.

7 Based on the admissions of respondent and the testimony at the
8 hearing, the panel found that in the fall of 1993 respondent settled a lawsuit
9 for his client, Grace Oliver, for \$55,000. He paid himself an attorney fee
10 from the settlement, but did not remit the balance to Oliver despite her
11 repeated requests. Oliver employed another attorney whose efforts to obtain
12 the funds were also unsuccessful. Only after respondent was subpoenaed in
13 connection with this disciplinary proceeding did he transmit to Oliver her
14 portion of the settlement proceeds.

15 The panel further found that while guardian of his son, Christian
16 Hallows, respondent took approximately \$58,000 from Hallows’s
17 guardianship account, and while guardian of an incompetent veteran,
18 Maurice Christian, respondent took approximately \$44,000 from Christian’s

1 guardianship account. Respondent has made no restitution to either the
2 Hallows guardianship or the Christian guardianship.

3 The panel additionally found that respondent began to have a
4 drinking problem in the mid- to late 1970s and that he was dysfunctional for
5 a period of eighteen months before he was hospitalized in April 1995 for
6 alcohol dependency. Respondent has since signed and met the conditions of
7 a contract with the Ohio Lawyers Assistance Program.

8 After the hearing, the panel learned that respondent had been
9 convicted of (aggravated) theft and tampering with records.

10 The panel recommended that respondent be suspended indefinitely
11 from the practice of law and that any readmission be predicated on the
12 repayment of funds to the Hallows and Christian guardianships and the
13 repayment of any surety that was required to honor its bond as a result of
14 respondent's defalcations. The board adopted the findings, conclusions, and
15 recommendations of the panel.

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17 *Roger Luring*, for relator

18 *De Wayne Smith*, for respondent

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2 *Per Curiam.* Public trust in the legal profession is tested daily in the
3 service provided by each individual lawyer to his or her clients. When a
4 lawyer, who has taken responsibility for a client's papers or property,
5 commingles client funds or dissipates that property, that lawyer not only ill
6 serves the client but also contributes to the erosion of public trust in the
7 profession. *Columbus Bar Assn. v. Brooks* (1996), 75 Ohio St.3d 524, 664
8 N.E.2d 900.

9 This disciplinary proceeding involves a respondent whose clients
10 expected him to promptly remit settlement funds and to handle estate funds
11 with the utmost care. Respondent not only failed to remit client funds
12 promptly when requested but also filed false reports with the probate court
13 and misappropriated moneys in two guardianship estates.

14 Respondent has received criminal penalties for his fraud and
15 defalcation. It is our duty not to punish further for these infractions but, as
16 required by our power of superintendence of the practice and profession of
17 law in this state, to determine whether and on what conditions respondent
18 should remain on the roll of those attorneys permitted to practice in Ohio.

1 During the past year we have said at least three times that the
2 appropriate sanction for misappropriation of client funds is disbarment.
3 *Columbus Bar Assn. v. Sterner* (1996), 77 Ohio St. 3d 164, 16, 672 N.E.2d
4 633; *Mahoning Cty. Bar Assn. v. Michaels* (1996), 75 Ohio St.3d 645, 647,
5 665 N.E.2d 676, 677; *Disciplinary Counsel v. Connaughton* (1996), 75
6 Ohio St. 3d 644, 645, 665 N.E.2d 675, 676. This is not a new sanction. We
7 have imposed this penalty for at least twenty-two years. Cf. *Lake Cty. Bar*
8 *Assn. v. Ostrander* (1975), 41 Ohio St.2d 93, 70 O.O.2d 173, 322 N.E.2d
9 653.

10 In this case the board found mitigating circumstances and
11 recommended a penalty of indefinite suspension. In a recent similar case
12 which could otherwise have warranted disbarment, we gave weight to the
13 attorney's sincere attempt to overcome his alcoholism and the board's
14 recommendation of leniency. *Cuyahoga Cty. Bar Assn. v. Keeler* (1996), 76
15 Ohio St.3d 471, 475, 668 N.E.2d 471, 474. For a similar reason, we adopt
16 the recommendation of the board and the respondent is hereby indefinitely
17 suspended from the practice of law in Ohio. Costs are taxed to the
18 respondent. *Judgment accordingly.*

1 DOUGLAS, RESNICK, F.E. SWEENEY and LUNDBERG STRATTON, JJ.,

2 concur.

3 COOK, J., dissents.

4 MOYER, C.J., and PFEIFER, J., not participating.

5 COOK, J., dissenting. The thefts by this respondent involve a level of

6 volition that, in my view, is unmitigated by his addiction to alcohol. I

7 would, therefore, disbar respondent.

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