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DISTRICT OF COLUMBIA COURT OF APPEALS

No. 02-BG-451

IN RE CHESTER N. KATZ, RESPONDENT.

A Member of the Bar
of the District of Columbia Court of Appeals

On Report and Recommendation
of the Board on Professional Responsibility

(Decided June 27, 2002)

Before FARRELL and WASHINGTON, *Associate Judges*, and KING, *Senior Judge*.

PER CURIAM: The Board on Professional Responsibility (“Board”) has concluded that respondent Chester N. Katz failed to safeguard property entrusted to him and negligently misappropriated funds, in violation of Rule 1.15 (a) of the District of Columbia Rules of Professional Conduct. Respondent’s misconduct occurred in his handling of a real estate transaction wherein he used one client’s check to pay the recordation fees of another client and then used funds escrowed for the latter client to pay the recordation fees of the former client.

The Board concluded that a six-month suspension is the appropriate sanction for respondent’s misconduct, but also found that respondent is entitled to mitigation under *In re Kersey*, 520 A.2d 321 (D.C. 1987), because his misconduct would not have occurred but for his depression and dysthymia. The Board noted that respondent has taken the steps recommended to him by medical experts to reduce the likelihood of any ethical lapse in the future. Consequently, the Board recommends that respondent’s suspension be stayed in favor of six months of probation upon proof that he is pursuing therapy for his depression

and dysthymia. Bar Counsel and respondent have each informed the court that they take no exception to the Board's recommendation.

This court will accept the Board's findings as long as they are supported by substantial evidence in the record. D.C. Bar R. XI, § 9 (g)(1). Moreover, we will impose the sanction recommended by the Board "unless to do so would foster a tendency toward inconsistent dispositions for comparable conduct or would otherwise be unwarranted." *Id.* In light of our deferential standard of review when the Board's recommendation is uncontested, we adopt the Board's recommendation. *See* D.C. Bar R. XI, § 9 (g)(2); *In re Delaney*, 697 A.2d 1212, 1214 (D.C. 1997). Accordingly, it is

ORDERED that Chester N. Katz is suspended from the practice of law in the District of Columbia for the period of six months. Said suspension is stayed, and respondent is placed on probation for the period of six months on the condition that he submit quarterly to Bar Counsel proof that he is continuing therapy for his depression and dysthymia with a licensed mental health professional.

So ordered.