

NO. 26517

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

RONALD G. S. AU, Respondent.

(ODC 95-242-4701, ODC 97-213-5407, ODC 98-064-5555)

ORDER OF SUSPENSION

(By: Moon, C.J., Levinson, and Nakayama, JJ., Circuit Judge Virginia Lea Crandall in place of Acoba, J., recused, and Circuit Judge Frances Q.F. Wong in place of Duffy, J., recused)

Upon consideration of (1) the Disciplinary Board of the Hawai'i Supreme Court's April 20, 2004 report and recommendation for the suspension of Respondent Ronald G. S. Au (Respondent Au) from the practice of law for a period of two years, (2) the hearing committee's November 26, 2003 findings of fact, conclusions of law, and recommendation for the public censure and disbarment of Respondent Au, (3) Petitioner Office of Disciplinary Counsel's (Petitioner ODC) briefs, (4) Respondent Au's briefs, and (5) the record, we conclude that Petitioner ODC has proved by clear and convincing evidence that Respondent Au violated the following Hawai'i Rules of Professional Conduct (HRPC):

- HRPC Rule 1.1 (requiring a lawyer to provide competent representation);
- HRPC Rule 1.5(c) (requiring that a contingent fee agreement must be in writing and must state the method by which the fee is to be determined);
- HRPC Rule 1.15(a) (1) (requiring a lawyer to maintain a client trust account into which the lawyer must deposit all funds that are entrusted

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to the lawyer's care);

- HRPC Rule 1.15(c) (prohibiting a lawyer from commingling client funds with the lawyer's own funds or misappropriating such funds for the lawyer's own use or benefit);
- HRPC Rule 1.15(c) (requiring a lawyer to deposit into a client trust account any funds that belong in part to a client and in part presently or potentially to the lawyer);
- HRPC Rule 1.15(c) (requiring a lawyer to deposit into a client trust account any funds that belong in part to a client and in part presently or potentially to the lawyer, but additionally requiring the lawyer to withdraw any portion belonging to the lawyer when due);
- HRPC Rule 1.15(d) (requiring a lawyer to deposit intact into a client trust account all funds entrusted to the lawyer except for non-refundable retainers earned upon receipt);¹
- HRPC Rule 1.15(e) (requiring that, when a lawyer withdraws earned fees from a client trust account, the lawyer must distribute the earned fees by check to the named lawyer);
- HRPC Rule 3.3(a) (1) (prohibiting a lawyer from knowingly making a false statement of material fact or law to a tribunal);
- HRPC Rule 7.2(c) (prohibiting a lawyer from giving anything of value to a person for recommending the lawyer's services);
- HRPC Rule 8.4(a) (prohibiting a lawyer from violating or attempting to violate the HRPC); and
- HRPC Rule 8.4(c) (prohibiting a lawyer from

¹ Effective January 1, 2002, we amended Rule 1.15(d) of the Hawai'i Rules of Professional Conduct (HRPC) by, among other things, deleting the reference to "non-refundable retainers" and providing that "all fee retainers are refundable until earned." HRPC Rule 1.15(d) (as amended on October 9, 2001, effective January 1, 2002).

engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

Therefore,

IT IS HEREBY ORDERED that Respondent Ronald G. S. Au (attorney number 599) is suspended from the practice of law in this jurisdiction for a period of five (5) years, effective thirty (30) days after entry of this order, as provided by Rule 2.16(c) of the Rules of the Supreme Court of the State of Hawai'i.

DATED: Honolulu, Hawai'i, June 7, 2005.

Alvin T. Ito,
special assistant
disciplinary counsel,
for petitioner

Ronald G.S. Au,
respondent pro se

