

Supreme Court of Kentucky

2023-SC-0273-KB

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

JAY ARTHUR ROSENBERG

RESPONDENT

OPINION AND ORDER

On June 20, 2023, this Court entered an Order directing Jay Arthur Rosenberg, Kentucky Bar Association No. 81584, to show cause why he should not be subject to reciprocal discipline, pursuant to Supreme Court Rule (SCR) 3.435, after being permanently disbarred from the practice of law in Virginia and the District of Columbia. Because he has failed to respond to this Court's order to show cause within 20 days, we order that Rosenberg be permanently disbarred in this Commonwealth, consistent with the Order of the District of Columbia Court of Appeals.

Rosenberg was admitted to the practice of law in Kentucky on July 2, 1986. On April 20, 2023, the District of Columbia Court of Appeals entered an Order permanently disbarring Rosenberg as reciprocal discipline from Virginia. In crafting its Order, the District of Columbia Court of Appeals considered an Order from Virginia that revoked any authority Rosenberg had to practice law,

and further barred him from seeking admission to practice in Virginia, after the Supreme Court of Virginia found he had been engaging in the unauthorized practice of law. Rosenberg consented to the revocation of any authority he had to practice law in Virginia.

In his Affidavit Declaring Consent to Revocation filed in the Circuit Court of Fairfax County, Virginia, Rosenberg acknowledged that his law practice was predominantly devoted to the preparation of deeds for residential real estate transactions. Rosenberg also stipulated that his firm had prepared approximately 2,000 to 2,200 deeds per year for Virginia-based real estate transactions from 2018 to 2021. Rosenberg also stipulated his firm had prepared approximately 2,000 deeds per year for Virginia-based real estate transactions from 2014 to 2017. Rosenberg also attested that a Virginia Bar Counsel investigation revealed that his firm had subcontracted his first drafts of most deeds to a firm in India. A random sample of deeds reviewed by the Virginia Bar revealed that a significant number contained spelling or grammatical errors, and even some substantive errors that had not been reviewed by a Virginia-licensed attorney before delivery to clients. Rosenberg also stipulated that his firm had no Virginia-licensed employee prior to 2021, and that deeds prepared prior to 2021 included the name of an external Virginia-licensed attorney to whom Rosenberg's firm paid a small monthly retainer to "review" the drafts produced in India.

Rosenberg acknowledged that his actions violated Virginia's Rules of Professional Conduct requiring competence (VRPC 1.1) and diligence (VRPC

1.3), and those prohibiting the unauthorized practice of law (VRPC 5.5). Kentucky's SCR 3.130(1.1) (competence), 3.130(1.3) (diligence), and 3.130(5.5) (unauthorized practice of law) are similar to those Virginia rules that Rosenberg violated.

Should an attorney licensed to practice law in Kentucky receive discipline in another jurisdiction, this Court imposes identical discipline, pursuant to SCR 3.435(4), "unless Respondent proves by substantial evidence: (a) a lack of jurisdiction or fraud in the out-of-state disciplinary proceeding, or (b) that misconduct established warrants substantially different discipline in this State." Rosenberg has failed to respond to this Court's order to show cause and has failed to proffer any evidence showing a lack of jurisdiction or fraud in the District of Columbia proceeding; or that the misconduct established warrants substantially different discipline in Kentucky. Accordingly, we are required to impose the identical discipline of permanent disbarment.

Therefore, it is hereby ORDERED:

1. Jay Arthur Rosenberg is permanently disbarred from the practice of law in the Commonwealth of Kentucky, effective from the entry of this Opinion and Order;
2. Pursuant to SCR 3.390, Rosenberg shall, if he has not already done so, within twenty (20) days from the entry of this Opinion and Order, notify all clients, in writing, of his inability to represent them; notify, in writing, all courts in which he has matters pending of his permanent disbarment from the practice of law; and furnish copies of all letters of

notice to the Office of Bar Counsel. Furthermore, to the extent possible, Respondent shall immediately cancel and cease any advertising activities in which he is engaged; and

3. In accordance with SCR 3.450, Rosenberg shall pay all costs associated with these disciplinary proceedings against him and for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur.

Entered: October 26, 2023


CHIEF JUSTICE