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Supreme Court
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SCRU-11-0000068

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI'I

ORDER AMENDING RULE 10.3 OF THE RULES
OF THE SUPREME COURT OF THE STATE OF HAWAI'I
(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

IT IS HEREBY ORDERED that Rule 10.3 of the Rules of the Supreme Court of the State of Hawai'i, is amended, effective January 1, 2013, as follows (deleted material is bracketed and stricken; new material is underscored):

10.3. Payment of claims.

(a) Eligible claims. The trustees may consider for payment all claims resulting from the dishonest conduct of a member of the Bar of this State, provided that:

(1) Said conduct was engaged in while the attorney was licensed member of the Bar of this State; and

(i) the claim originates from the attorney's providing legal services [maintains] in the State of Hawai'i [~~an office for the practice of law~~]; and

(ii) the claimant engaged the attorney's services in the State of Hawai'i;
and
(iii) the dishonest conduct occurred in the State of Hawai'i; and
(2) The claim arises out of an attorney-client or fiduciary relationship
customary to the practice of law such as where an attorney acts as an
administrator, executor, trustee of an express trust, guardian or conservator; and
(3) The attorney has (one of the following):
(i) died;
(ii) been adjudicated a bankrupt;
(iii) been adjudicated an incompetent;
(iv) been disbarred or suspended from the practice of law, or voluntarily
resigned from the practice of law;
(v) become a judgment debtor of the claimant, which adjudication shall
have been based upon dishonest conduct while acting as specified in Rule
10.3(a) (2) and which judgment or judgments remain unsatisfied in whole or in
part;
(vi) been adjudged guilty of a crime, which adjudication shall have been
based upon the dishonest conduct of the attorney; or
(vii) left the jurisdiction and cannot be found.
(4) In addition to satisfaction of one of the requirements for eligibility
under Rule 10.3(a) (3), the trustees may require that the application demonstrate
either:
(i) that the alleged defalcating attorney is a judgment debtor of the
claimant, the judgment or appeal is final, and the claimant has exhausted all
remedies in attempting to collect the judgment; or
(ii) that the alleged defalcating attorney is without assets or that under
the circumstances it is otherwise impracticable to obtain a judgment against the
attorney, and there is no applicable insurance or bond.

* * *

DATED: Honolulu, Hawai'i, October 15, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

