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SCAD-16-0000169

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

vs.

KENNETH BRIAN SCHWARTZ,
Respondent.

ORIGINAL PROCEEDING
(ODC 16-J-010)

ORDER IMPOSING A PUBLIC REPRIMAND

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of the petition for issuance of a reciprocal discipline notice upon Respondent Kenneth Brian Schwartz, filed on March 15, 2016 by the Office of Disciplinary Counsel (ODC) pursuant to Rule 2.15(b) of the Rules of the Supreme Court of the State of Hawai'i (RSCH), the memorandum and exhibits appended thereto, and Respondent Schwartz's timely response, we note that, on June 18, 2015, Schwartz stipulated that certain conduct in which he engaged violated Rules 4-1.1, 4-1.3, 4-1.4(a), 4-1.4(b), 4-1.5(f)(1), 4-1.5(f)(5), 4-3.2, 4-8.4(a), 4-8.4(d), 5-1.1(e), 5-1.1(f), and 5-1.2(b)(7) of the

Rules Regulating the Florida Bar (RRFB), and agreed to receive a public reprimand, bear the costs of the proceedings, and complete a training course in client trust account management. Upon review of the stipulated facts and Rules violations, we conclude that the same conduct, if committed in this jurisdiction, would constitute violations of Rules 1.1, 1.3, 1.4(a), 1.4(b), 1.5(c), 1.15(c), 1.15(f)(1), 1.15(f)(3), 1.15(f)(4), 1.15(g), and 3.2 of the Hawai'i Rules of Professional Conduct (HRPC) (1994), and that none of the circumstances set forth in RSCH Rules 2.15(c)(1) through 2.15(c)(4) apply to excuse this court from its duty to impose reciprocal discipline. We also note that, in mitigation, the matter did not involve fraud or dishonesty and Respondent Schwartz has a clean disciplinary record, did not have a dishonest or selfish motive, did not profit personally from the conduct, suffered medical challenges during a portion of the relevant period, at all times demonstrated a cooperative attitude towards the disciplinary proceedings, made full disclosures to the Florida and Hawai'i Bars, has been certified in Florida as a workers' compensation attorney and has participated in educational programs for the legal community, and is remorseful. Therefore,

IT IS HEREBY ORDERED Respondent Kenneth Brian Schwartz is publicly reprimanded.

IT IS FURTHER ORDERED that Respondent Schwartz shall bear the costs of these reciprocal disciplinary proceedings upon approval of a timely filed verified bill of costs submitted by the Office of Disciplinary Counsel.

DATED: Honolulu, Hawai'i, June 9, 2016.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

