

D-15-2

**BEFORE THE BOARD OF PROFESSIONAL RESPONSIBILITY
WYOMING STATE BAR
STATE OF WYOMING**

IN THE SUPREME COURT
STATE OF WYOMING
FILED

In the matter of)
SUE DAVIDSON,)
WSB Attorney No. 5-1687,)
Respondent.)

JUL 11 2005

Docket No. 2004-18


JUDY PACHECO, CLERK

REPORT AND RECOMMENDATION FOR PUBLIC CENSURE

The Board of Professional Responsibility makes the following report and recommendation for public censure, with its findings of fact, conclusions of law, and recommendation to the Supreme Court of Wyoming:

FINDINGS OF FACT

1. Respondent Sue Davidson is currently an active member of the Wyoming State Bar and has been since 1978. Respondent resides in Cheyenne, Wyoming.

2. In July 2003, Respondent's client, DBL Holdings, LLC, through its agent, Drew Dolan, engaged Respondent to perform legal services relating to evictions. DBL and Respondent entered into a contract, by the terms of which BDL was to pay all submitted bills within 25 days of receipt. DBL did not go that. Respondent was asked by DBL, through employee Dea Cox, to also do collections from the evictions.

3. In November 2003, Respondent's firm began to receive garnishment checks on behalf of DBL. Respondent notified DBL each time a garnishment check was received.

4. After seeing the first garnishment check, Cox authorized Respondent to deposit the garnishment checks in the firm's trust account, which Respondent did. Thereafter, Cox was orally advised each time a garnishment check was received.

5. At the outset of this relationship, a firm employee was instructed to provide an accounting of the trust funds to DBL with the regular monthly billing statements. Approximately 2 weeks later, Respondent discovered the employee had not done so. The accounting was then sent to DBL that same day.

6. When DBL requested that Respondent pay it the garnishment funds, I informed DBL, first orally then in writing, that she was holding the funds as security for the unpaid attorney fees. Respondent did not send a formal notice of lien as required by W.S. §29-1-102(b).

7. When DBL admitted that the attorney fees were owed, Respondent paid her firm from DBL's trust monies without DBL's approval.

8. Respondent agrees that taking her legal fees from the trust account without client permission was a violation of Rule 1.15(d) of the Wyoming Rules of Professional Conduct.

CONCLUSIONS OF LAW

9. Standard 4.13 of the ABA Standards for Imposing Lawyer Sanctions discusses the acts which result in a public censure for violations of Rules 1.15: "Reprimand [or public censure] is generally appropriate when a lawyer is negligent in dealing with client property, and causes injury or potential injury to a client."

10. ABA Standards for Imposing Lawyer Sanctions 9.1 provides for consideration of aggravating and mitigating circumstances in deciding on an appropriate sanction. Section 9.21 defines aggravating circumstances as “any consideration, or factors that may justify an increase in the degree of discipline to be imposed.” Section 9.31 defines mitigating circumstances as “any considerations, or factors that may justify a reduction in the degree of discipline to be imposed.”

- a. Applicable aggravating factors in this case are:
 - i. Section 9.22 (i)---substantial experience in the practice of law.
- b. Applicable mitigating factors are:
 - i. Section 9.32 (a)---absence of a prior disciplinary record;

RECOMMENDATION TO THE SUPREME COURT OF WYOMING

11. As an appropriate sanction for her violations of Wyoming Rules of Professional Conduct:

- a. Respondent should receive a public censure which states as follows:

“Cheyenne Attorney Sue Davidson received a formal public censure by order of the Wyoming Supreme Court on _____.

Ms. Davidson and her client entered into a contract. By the terms of the contract, her client was to pay all submitted billing statements within 25 days after receipt. The client did not pay the billing statements as agreed by contract.

Ms. Davidson received garnishment funds for the client. The client was shown the garnished funds, and as agreed by the client, the garnished funds were deposited into the law firm’s trust account. When the client admitted that Ms. Davidson’s legal fees were due and owing, Ms. Davidson offset the legal fees that were

due out of the garnished funds without express authority from her client.

The Wyoming Rules of Professional Conduct regulate the conduct of Wyoming attorneys. In offsetting her fees out of funds held for her client without obtaining client permission, Ms. Davidson violated Rule 1.15. Ms. Davidson had no prior disciplinary record.

2005 2 Ms. Davidson stipulated to these facts and consented to this discipline. The Board of Professional Responsibility approved the stipulation, and on its recommendation the Wyoming Supreme Court entered its order censuring Ms. Davidson and requiring her to pay some of the costs of the Wyoming State Bar for prosecuting this matter.”

b. By the end of April 2006, Respondent will attend the Pathways to Professional Conduct CLE presented by the Wyoming State Bar in addition to the required 15 hours of CLE.

c. Respondent will reimburse the Wyoming State Bar for the costs of handling this matter ^{capred} in the amount of \$100.00 ^{si} and paid the administrative fee of \$500.00 no later than 1 September 2005.

This decision is unanimously made by a quorum of the Board of Professional Responsibility. It is therefore so recommended July 15th, 2005

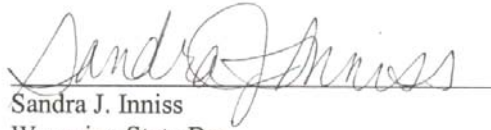

Joe Teig, Chair
Board of Professional Responsibility

~~Copies:
Bar Counsel
Steve Aron
Sue Davidson~~

CERTIFICATE OF SERVICE

I, Sandra J. Inniss, do hereby certify that a true and correct copy of the **Report and Recommendation** was mailed by United States Mail, postage prepaid, on the 11th day of July, 2005, to each of the following individuals:

C.M. "Steve" Aron, Esq.
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