

IN THE SUPREME COURT STATE OF WYOMING

APRIL TERM, A.D. 1987

In the Matter of the )  
Amendments of the )  
Disciplinary Code for )  
the Wyoming State Bar )

IN THE SUPREME COURT  
STATE OF WYOMING  
FILED

OCT 1 1987

*Jean A. Woods*  
CLERK

ORDER

The Wyoming State Bar, through its Grievance Committee, having submitted proposed amendments of the Disciplinary Code for the Wyoming State Bar to the court; and the court having reviewed the proposed amendments and making modifications and revisions thereto, and deeming the amendments to be advisable, it is

ORDERED that the amendments to the Disciplinary Code for the Wyoming State Bar, attached hereto, be and the same are adopted by the court, effective September 22, 1987; and,

ORDERED that the amendments to the Disciplinary Code for the Wyoming State Bar shall be published in the Advance Sheets of the Pacific Reporter and in the Wyoming Reporter, and thereafter be spread at length on the journal of the court; and

FURTHER ORDERED that the Grievance Committee of the Wyoming State Bar be commended for their work and that the gratitude of the court be extended to each member.

Dated this 22nd day of September, 1987.

By The Court:\*

*Richard V. Thomas*  
Justice

\*Brown, C.J., not participating

Disciplinary Code for the Wyoming State Bar

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Rule VI. Formal disciplinary procedure.

(a) Upon completion of a formal investigation, investigating counsel shall report the results of that investigation to the Attorney General. The Attorney General may move the committee to dismiss the grievance but such recommendation shall not be binding on the committee. Otherwise, the Attorney General shall ~~proceed to prosecute~~ INITIATE THE PROSECUTION OF the action, BY THE FILING OF A FORMAL COMPLAINT WITH THE GRIEVANCE COMMITTEE, AND THEREAFTER conducting the necessary steps ~~in that regard thereafter~~ TO COMPLETE THE PROSECUTION OF THE ACTION.

(b)(1) Notice and process relating to the institution of formal disciplinary proceedings shall be as provided in the rules of procedure adopted by the committee.

(b)(2) IF THE ATTORNEY NAMED AS THE RESPONDENT IN THE COMPLAINT FAILS TO ANSWER THE COMPLAINT WITHIN THE TIME PROVIDED BY THE RULES OF PROCEDURE ADOPTED BY THE COMMITTEE, THE ATTORNEY GENERAL MAY FILE A MOTION FOR ENTRY OF DEFAULT, SUPPORTED BY AFFIDAVITS PROVIDING CLEAR AND CONVINCING EVIDENCE OF THE ALLEGATIONS IN THE COMPLAINT, WHICH SHALL SEEK RELIEF IN THE FORM OF AN ORDER OF DEFAULT TO THE COMPLAINT AND RECOMMEND TO THE SUPREME COURT THE DISCIPLINE SET FORTH IN THE COMPLAINT. THE GRIEVANCE COMMITTEE SHALL CAUSE COPIES OF THE MOTION AND AFFIDAVITS TO BE SERVED ON

THE RESPONDENT-ATTORNEY, TOGETHER WITH A NOTICE THAT DEFAULT WILL BE ENTERED IF THE RESPONDENT-ATTORNEY FAILS TO ANSWER THE COMPLAINT WITHIN TEN DAYS AFTER SERVICE OF THE NOTICE ON THE RESPONDENT-ATTORNEY. IF THE RESPONDENT-ATTORNEY STILL FAILS TO ANSWER THE COMPLAINT, WITHIN TEN (10) DAYS OF SERVICE OF THE NOTICE, THE GRIEVANCE COMMITTEE SHALL ENTER AN ORDER OF DEFAULT TO THE COMPLAINT WHICH RECOMMENDS TO THE SUPREME COURT THE DISCIPLINE SET FORTH IN THE COMPLAINT. THE GRIEVANCE COMMITTEE SHALL FILE A COPY OF THE ORDER OF DEFAULT, ITS REPORT, FINDINGS, RECOMMENDATIONS AND ANY MINORITY VIEWS WITH THE CLERK OF THE SUPREME COURT AND SHALL SERVE A COPY THEREOF ON THE RESPONDENT-ATTORNEY.

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(e) IF THE RESPONDENT-ATTORNEY FAILS TO APPEAR AND CONTEST THE ALLEGATIONS IN THE COMPLAINT AT THE TIME THE COMPLAINT IS SET FOR HEARING, WHETHER OR NOT THE RESPONDENT-ATTORNEY HAS ANSWERED THE COMPLAINT, THE ATTORNEY GENERAL, IN LIEU OF PROCEEDING WITH THE HEARING, MAY, WITHIN THIRTY (30) DAYS AFTER THE HEARING DATE, PRESENT TO THE GRIEVANCE COMMITTEE AFFIDAVITS PROVIDING CLEAR AND CONVINCING EVIDENCE OF THE ALLEGATIONS IN THE COMPLAINT. IF THE GRIEVANCE COMMITTEE FINDS THAT ALLEGATIONS IN THE COMPLAINT ARE ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE SET FORTH IN THE AFFIDAVITS AND SUFFICIENT TO WARRANT FORMAL DISCIPLINE, IT SHALL RECOMMEND DISCIPLINE AND THE EXTENT THEREOF, FILE A COPY OF ITS REPORT, FINDINGS, RECOMMENDATIONS AND ANY MINORITY VIEWS WITH THE

CLERK OF THE SUPREME COURT, AND SERVE A COPY THEREOF ON THE  
RESPONDENT-ATTORNEY.

~~(e)~~(f)

~~(f)~~(g)

~~(g)~~(h) Whenever the committee shall recommend to the Supreme Court that an attorney be disciplined and shall file its report, findings and recommendations with the clerk of the Supreme Court (with a copy mailed to the respondent-attorney and his or her counsel), the said respondent-attorney shall within twenty (20) days after the mailing of such copy file with the clerk of the Supreme Court six (6) copies of:

(1) A statement that respondent does not wish to file exceptions to the report, findings and recommendations; or

(2) Respondent's exceptions to said report ~~with~~ STATING THE explicit reasons ~~therefor~~ FOR THE EXCEPTIONS TOGETHER WITH A BRIEF PREPARED IN ACCORDANCE WITH RULE 5.01 OF THE WYOMING RULES OF APPELLATE PROCEDURE. If the respondent-attorney files a statement that respondent does not wish to file exceptions to the report or, if the respondent-attorney fails to respond, the court shall proceed with such discipline as it may determine to be proper. If the respondent-attorney files exceptions AS REQUIRED HEREIN, properly supported with a BRIEF AND A transcript or

relevant portions thereof, the court immediately shall calendar the matter for such briefs or arguments as it may deem appropriate and shall thereafter enter its judgment. During its review, the Supreme Court shall not receive or consider any evidence that was not presented to the committee.

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-- delete present Rule XIII and substitute the following:

**Rule XIII. CONSENT TO IMPOSITION OF FORMAL DISCIPLINE.**

(a) THE GRIEVANCE COMMITTEE AND A RESPONDENT-ATTORNEY WHO IS SUBJECT TO FORMAL DISCIPLINARY PROCEEDINGS MAY STIPULATE AND CONSENT TO IMPOSITION OF FORMAL DISCIPLINE BY THE SUPREME COURT AT ANY STAGE OF FORMAL DISCIPLINARY PROCEEDINGS BY SUBMITTING TO THE GRIEVANCE COMMITTEE AN AFFIDAVIT OF THE RESPONDENT-ATTORNEY STATING THE FOLLOWING:

(1) THE RESPONDENT-ATTORNEY STIPULATES AND CONSENTS TO THE IMPOSITION OF FORMAL DISCIPLINE BY THE SUPREME COURT;

(2) SPECIFICALLY WHAT FORMAL DISCIPLINE THE RESPONDENT-ATTORNEY STIPULATES AND CONSENTS TO MAY BE IMPOSED BY THE SUPREME COURT, WHICH MAY INCLUDE PUBLIC CENSURE, SUSPENSION UP TO FIVE YEARS, OR DISBARMENT;

(3) THE AFFIDAVIT AND THE STIPULATION AND CONSENT ARE FREELY AND VOLUNTARILY ENTERED INTO; THE RESPONDENT-ATTORNEY HAS NOT BEEN SUBJECTED TO ANY COERCION OR DURESS (OR IN THE ALTERNATIVE ANY COERCION OR DURESS THAT MAY HAVE BEEN INVOKED AND THE DESIRE OF THE RESPONDENT-ATTORNEY TO SO STIPULATE AND CONSENT DESPITE THE COERCION OR DURESS); THE RESPONDENT-ATTORNEY IS FULLY AWARE OF THE IMPLICATIONS OF SUBMITTING THE STIPULATION AND CONSENT, INCLUDING THE FACT THAT, IF THE PROPOSED DISCIPLINE IS DISBARMENT, THE RESPONDENT-ATTORNEY WILL OCCUPY THE SAME POSITION AS DISBARRED ATTORNEYS FOR THE PURPOSE OF REINSTATEMENT;

(4) THERE IS PENDING A FORMAL INVESTIGATION INTO THE ALLEGATIONS OF A WRITTEN COMPLAINT OR A COMPLAINT FOR FORMAL DISCIPLINE FILED BY THE ATTORNEY GENERAL ALLEGING THAT THE RESPONDENT-ATTORNEY IS GUILTY OF MISCONDUCT AND THE RESPONDENT-ATTORNEY SPECIFICALLY IS AWARE OF THE ALLEGATIONS IN THE WRITTEN COMPLAINT WHICH IS PENDING FORMAL INVESTIGATION OR IN THE FORMAL COMPLAINT FILED BY THE ATTORNEY GENERAL;

(5) THE RESPONDENT-ATTORNEY ACKNOWLEDGES THAT THE MATERIAL FACTS UPON WHICH THE WRITTEN COMPLAINT OR THE FORMAL COMPLAINT IS PREDICATED ARE TRUE; AND

(6) THE RESPONDENT-ATTORNEY SUBMITS THE STIPULATION AND CONSENT BECAUSE HE KNOWS THERE IS NO POSSIBILITY THAT HE COULD DEFEND HIMSELF AGAINST CHARGES PREDICATED UPON THE MISCONDUCT UNDER INVESTIGATION OR THE SAME CHARGES IN A FORMAL COMPLAINT.

(b) UPON RECEIPT OF THE REQUIRED AFFIDAVIT, THE GRIEVANCE COMMITTEE SHALL FILE IT WITH THE SUPREME COURT TOGETHER WITH THE GRIEVANCE COMMITTEE'S REPORT STATING THE GRIEVANCE COMMITTEE'S AGREEMENT WITH THE DISCIPLINE TO WHICH THE RESPONDENT-ATTORNEY HAS CONSENTED.

(c) IF THE DISCIPLINE TO WHICH THE RESPONDENT-ATTORNEY HAS CONSENTED IS DISBARMENT, THE SUPREME COURT SHALL ENTER AN ORDER DISBARRING THE RESPONDENT-ATTORNEY ON CONSENT.

(d) IF THE DISCIPLINE TO WHICH THE RESPONDENT-ATTORNEY HAS CONSENTED IS OTHER THAN DISBARMENT, THE SUPREME COURT MAY ENTER AN ORDER IMPOSING THE FORMAL DISCIPLINE TO WHICH THE RESPONDENT-ATTORNEY HAS CONSENTED, OR THE SUPREME COURT MAY REJECT THE PROPOSED FORMAL DISCIPLINE AND REMAND THE MATTER TO THE GRIEVANCE COMMITTEE FOR COMPLETION OF FORMAL DISCIPLINARY PROCEEDINGS IN ACCORDANCE WITH RULE VI.

(e) THE ORDER OF DISCIPLINE ENTERED ON CONSENT SHALL BE A MATTER OF PUBLIC RECORD. HOWEVER, THE AFFIDAVIT REQUIRED UNDER THE PROVISIONS OF THIS RULE SHALL NOT BE PUBLICLY DISCLOSED OR MADE AVAILABLE FOR USE IN ANY OTHER PROCEEDING, EXCEPT UPON ORDER OF THE SUPREME COURT.