

SUPREME COURT OF LOUISIANA

NO. 03-B-2500

IN RE: HAROLD D. LUCIUS, JR.

ATTORNEY DISCIPLINARY PROCEEDINGS

PER CURIAM

In this matter, both respondent, Harold Dean Lucius, Jr., and the Office of Disciplinary Counsel ("ODC") seek review of a ruling of the disciplinary board ordering that respondent be publicly reprimanded.

Having reviewed the record and the briefs of the parties, we find the disciplinary board correctly dismissed Count I of the formal charges.

With respect to Count II, the hearing committee and the disciplinary board made a factual finding that the fee respondent collected was reasonable under the circumstances. This finding is supported by the record. However, having made such a factual determination, the board erred in concluding that respondent violated Rule 1.5(f)(6) in failing to place the disputed portion of the fee into his trust account. As the dissenting members of the board pointed out, the rule requires putting in trust only "an amount which represents the portion of the fee which is reasonably in dispute." If respondent earned the entire fee, then it follows that no amount of that fee could reasonably have been in dispute. Based on this reasoning, we reject the board's determination that respondent violated Rule 1.5(f)(6) and dismiss the formal charges against respondent.

Accordingly, it is the judgment of this court that the formal charges against respondent be dismissed.