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BOND VALIDATION - GEORGIA

In re Woodham

Supreme Court of Georgia - February 16, 2015 - S.E.2d - 2015 WL 662294

This disciplinary matter arose from bond validation proceedings in which attorney intervened on behalf of himself and Citizens for Ethics in Government, LLC, filed objections to the validation of the bonds, and later offered to withdraw the objections if developers concerned in the bonds paid a substantial amount of money.

State Bar filed formal complaint against attorney after attorney's petition for voluntary discipline was rejected. Following a hearing, Special Master, found attorney violated rules of professional conduct and recommended that attorney be suspended for three months and receive a public reprimand. Attorney and State Bar sought further review, and the Review Panel found only violation of one rule of professional conduct, but recommended six-month suspension and reprimand. Attorney appealed.

The Supreme Court of Georgia held that:

- Attorney did not violate rule of professional conduct prohibiting unauthorized contact with represented party, and
- Attorney's filing of intervention complaint did not violate rule prohibiting him from engaging in conduct involving misrepresentation.

Attorney's conduct in contacting developers without consent of their bond counsel to discuss settlement of intervention complaints in bond validation proceedings did not violate rule of professional conduct prohibiting attorney from contacting a represented party unless authorized to do so. Attorney first attempted to make contact with developers' in-house counsel, attorney discontinued communications when he learned that developers had no such counsel, attorney declined to discuss anything of substance with chief executive officer (CEO) without presence of lawyer for developers, and developers' litigation counsel represented CEO in further discussions, even though she did not enter an appearance in the underlying bond matter.

Attorney's conduct in asking developers to pay him 1% of the bond amount to dismiss complaints in intervention in bond validation proceedings did not violate rule of professional conduct forbidding an attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. Attorney's standing to intervene in bond validation proceedings did not depend on his reasons for intervention, and attorney may have acted badly, may have attempted to misuse a legal process, and may have attempted to get money to which he had no legal claim, but there was no evidence that he misled or attempted to mislead developers about the filing of the complaints in intervention or the legal remedies to which the intervenors might be entitled in the bond validation proceeding.

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