

Alerts

Iowa Supreme Court Uses Equitable Power to Enjoin an Out-of-State Attorney Practicing Federal Law Under MJP Rules in Iowa, for Violations of the Iowa Ethics Rules

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Lawyers for the Profession® Alert

Iowa Supreme Court Attorney Disciplinary Board v. Carpenter, ___ N.W.2d ___, 2010 WL 1507633 (Iowa 2010)

Brief Summary

An attorney had practiced in Iowa under a state multijurisdictional practice (MJP) rule allowing lawyers licensed in another jurisdiction to handle certain federal law matters. In a case of first impression for the Iowa Supreme Court, the Court used its equitable power to enjoin the attorney from practicing in Iowa under any rule for two years as a result of trust account and other ethics violations.

Complete Summary

An attorney licensed in Minnesota but not in Iowa (the "Accused") practiced in Iowa pursuant to Iowa Rule of Professional Conduct (IRPC) 32:5.5(d)(2) (Iowa's federal MJP rule), permitting out of state lawyers to practice in certain federal law matters. The Iowa Supreme Court Attorney Disciplinary Board filed charges against the Accused alleging numerous violations of the IRPCs including accounting and trust account violations. The Accused stipulated to a 30-month suspension with additional conditions for reinstatement.

The Iowa Supreme Court enjoined the Accused from any practice of law in Iowa for two years. In a case of first impression for it, the Court noted that no rules addressed the Court's power to sanction attorneys practicing in Iowa without an Iowa license, and that certain traditional sanctions such as suspending or revoking an attorney's license were inapplicable to such attorneys. After looking to other jurisdictions, the Court concluded that it had the authority to fashion equivalent sanctions by virtue of its injunctive and equitable powers. "This authority is clearly necessary for the protection of Iowa citizens[.]" the Court noted.

In determining the appropriate sanction, the Court examined sanctions levied against Iowa-licensed attorneys for similar rule violations, as well as the usual considerations of the Accused's state of mind, harm to the Accused's clients, the Accused's fitness to practice law, and aggravating and mitigating factors. The Court determined from this analysis that the Accused's conduct normally would justify a two-year suspension. Applying its equitable power, the Court

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then translated this suspension into an injunction. The Court ordered the Accused to cease and desist from practicing law in Iowa under *any* law, including IRPC 32:5.5(d)(2), for two years, with conditions for reinstatement.

Significance of Opinion

This opinion demonstrates that lawyers who practice in a state under the authority of an MJP provision are subject to discipline up to and including a prohibition on their practice, even if a state's disciplinary structure does not contain express authority for such a sanction. The Court here properly focused on protecting Iowa clients and resorted to its inherent equitable authority to provide that protection.

This alert has been prepared by Hinshaw & Culbertson LLP to provide information on recent legal developments of interest to our readers. It is not intended to provide legal advice for a specific situation or to create an attorney-client relationship.