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PROFESSIONAL RESPONSIBILITY—COURT ORDERS INDEFINITE SUSPENSION RATHER THAN DISBARMENT AS SANCTION FOR LAWYER WHO MISAPPROPRIATED CLIENT FUNDS IN ESCROW ACCOUNT. *Attorney Grievance Commission v. Bakas*, 323 Md. 395, 593 A.2d 1087 (1991).

I. INTRODUCTION

As the only professionals with the expertise to make society's legal system available to citizens at large, lawyers have unique responsibilities with regard to maintaining and promoting justice. Clients place faith and trust in lawyers to handle their affairs competently, diligently, and honestly.¹

When a lawyer mishandles client funds, the lawyer is violating the trust and loyalty that defines the lawyer-client relationship. It is not surprising, therefore, that Maryland courts addressing this problem comment on the need not merely to punish the lawyer who mishandles client funds but also to protect society from a lawyer who demonstrates an unworthiness to practice law.²

Recently, however, the Court of Appeals of Maryland seems to have de-emphasized the purpose of protecting the public through disciplinary actions. In *Attorney Grievance Commission v. Bakas*,³ the court of appeals held that the commingling of personal and client escrow funds by an attorney warranted indefinite suspension rather than disbarment. The court found that there were external circumstances so compelling as to require the usual sentence of disbarment to be mitigated to indefinite suspension.⁴ The court did not cite prior case law, however, nor offer an explanation in reaching its conclusion.

Gus Bakas was retained by Douglas Sandhofer as counsel after being injured in an automobile accident on September 30, 1983.⁵ On

1. See generally MODEL CODE OF PROFESSIONAL RESPONSIBILITY, Preamble (2nd ed. 1992).

2. See *Attorney Grievance Comm'n v. Mandel*, 294 Md. 560, 586-88, 451 A.2d 910, 923 (1982) (citing *Maryland State Bar Ass'n v. Agnew*, 271 Md. 543, 318 A.2d 811 (1974)); *Attorney Grievance Comm'n v. Kerpelman*, 288 Md. 341, 381-83, 420 A.2d 940, 959-60 (1980), *cert. denied*, 450 U.S. 970 (1981); *Maryland State Bar Ass'n v. Sugarman*, 273 Md. 306, 318, 329 A.2d 1, 7 (1974), *cert. denied*, 420 U.S. 974 (1975).

3. 323 Md. 395, 593 A.2d 1087 (1991).

4. *Id.* at 403-04, 593 A.2d at 1091-92.

5. *Id.* at 397, 593 A.2d at 1088.

June 1, 1984, Bakas settled Sandhofer's claim against the other driver for \$7,750.00, and collected Personal Injury Protection benefits totalling \$3,315.75 from two insurers on Sandhofer's behalf.⁶ On that same day, the total recovery of \$11,065.75 was deposited into Bakas' escrow account.⁷

The trial court judge found that between June 23 and November 6 of 1984, Bakas withdrew money from the escrow account for personal and professional purposes, and never provided an accounting of the funds which he received on Sandhofer's behalf.⁸ During this time, the balance of the account fell below the amount owed to Sandhofer.⁹ In addition, Bakas neglected to pay Sandhofer's medical bills, for which Sandhofer was subsequently sued by his medical provider.¹⁰

Although at trial Bakas attempted to paint a picture of a life tainted by alcoholism, the trial court concluded that there was no causal connection between his misconduct and his problems with alcohol.¹¹ The court found that Bakas "unlawfully commingled his personal funds with client funds"¹² and was guilty of violating a variety of Disciplinary Rules.¹³

6. *Id.*

7. *Id.* at 397, 593 A.2d at 1088-89.

8. *Id.* at 398, 593 A.2d at 1089.

9. *Id.*

10. *Id.*

11. *Id.* at 398-99, 593 A.2d at 1089.

12. *Id.* at 398, 593 A.2d at 1089.

13. *Id.* at 397 n.1, 593 A.2d at 1088 n.1. The disciplinary rules at issue were DR 1-102, DR 6-101(A)(3), and DR 9-102. DR 1-102, prohibiting "misconduct," provides in relevant part as follows:

(A) A lawyer shall not:

(1) Violate a Disciplinary Rule.

(3) Engage in illegal conduct involving moral turpitude.

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Engage in any other conduct that adversely reflects on his fitness to practice law.

MODEL CODE OF PROFESSIONAL RESPONSIBILITY DR 1-102(A) (1984). In relevant part, DR 6-101 provides that "[a] lawyer shall not . . . [n]eglect a legal matter entrusted to him." MODEL CODE OF PROFESSIONAL RESPONSIBILITY DR 6-101(A)(3) (1984). DR 9-102(B) addresses the preservation and identification of client funds and property:

(B) A lawyer shall:

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and

II. THE INSTANT CASE

In upholding the trial court's decision, the court of appeals addressed whether Bakas' alcoholism was the cause of his misconduct, and whether disbarment was the appropriate sanction.¹⁴ The court explained that the trial judge's findings of fact are *prima facie* correct and should remain undisturbed unless clearly erroneous.¹⁵ The trial court considered a number of things in reaching its conclusion: (1) the credibility of an expert witness on alcoholism, (2) a report of a psychiatric evaluation, and (3) the testimony of the defendant, Bakas.¹⁶ The trial judge found that, although Bakas abused alcohol for nearly forty years, there was little or no direct evidence to support his claim that alcoholism was the direct cause of his professional misconduct.¹⁷ The factual findings demonstrated that Bakas "functioned as a maintenance alcoholic without incident for a number of years in the practice of law."¹⁸ The court of appeals found that the trial judge was not clearly erroneous in determining that the substantial cause of Bakas' misconduct was not his alcoholism.¹⁹

The court subsequently addressed the issue of sanctions, and recognized that "[m]isappropriation of funds by an attorney is an act infected with deceit and dishonesty and ordinarily will result in disbarment in the absence of compelling extenuating circumstances justifying a lesser sanction."²⁰ Although the court discounted Bakas' alcoholism as a causal factor in his misconduct, the court found other factors which it deemed so compelling as to warrant an indefinite suspension rather than disbarment.²¹ In its rationale, the court merely stated that "all the circumstances, including the nature

render appropriate accounts to his client regarding them.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

MODEL CODE OF PROFESSIONAL RESPONSIBILITY DR 9-102(B)(3) & (4) (1984).

14. See *Bakas*, 323 Md. at 403, 593 A.2d at 1091. The court found that Bakas functioned as a maintenance alcoholic for many years and that during this time there were no offending incidents relating to the practice of law. *Id.* The court also found that he possessed the necessary state of mind to secret \$10,000.00 in his escrow account and elude attachment from the IRS, and that he successfully handled the Sandhofer case. *Id.* Thus, the court concluded that if his alcohol did not affect his ability to perform the aforementioned functions then it could not cause his misconduct in the instant case. *Id.*

15. *Id.* at 402, 593 A.2d at 1091.

16. *Id.* at 401-02, 593 A.2d at 1090-91.

17. *Id.* at 403, 593 A.2d at 1091.

18. *Id.*

19. *Id.*

20. *Id.* at 403, 593 A.2d at 1091-92 (citing *Attorney Grievance Comm'n v. Ezrin*, 312 Md. 603, 608-09, 541 A.2d 966, 969 (1988)).

21. *Id.* at 403-04, 593 A.2d at 1091-92.

and gravity of the misappropriation, and the relatively short period during which Bakas' escrow account was in arrears,"²² warranted an indefinite suspension.²³

III. BACKGROUND

In *Bar Ass'n v. Marshall*,²⁴ the court of appeals held that "when a practitioner, through his actions, demonstrates a failure to maintain the high moral standards of the profession, by dishonestly appropriating his client's funds to his own use, we should not hesitate to withdraw the privilege of membership in the legal fraternity of this State."²⁵ In *Marshall*, the defendant was disbarred after being found guilty of holding \$2,344 in client-owned funds in his personal account.²⁶ The court also found that the defendant unlawfully refused to deliver the money to the client upon demand.²⁷ In the absence of compelling extenuating circumstances, the court concluded that disbarment should follow as a matter of course.²⁸ The court further commented that the gravity of the defendant's conduct was aggravated by the fact that his testimony was found to be unbelievable.²⁹

The *Marshall* court stated that, although courts should cautiously exercise their power to disbar, there should be no hesitation when the purpose of disbarment is to protect the public.³⁰ The purpose of disbarment is not to punish the attorney, but to protect the public from someone who has manifested his or her unworthiness to continue practicing law.³¹ Failure to disbar a deviant attorney "impliedly represent[s] to the public that the attorney continues to possess the basic qualities of honor traditionally associated with members of the bar of this State."³²

As far back as 1917, Judge Cardozo, in *In re Rouss*,³³ inquired into whether disbarment is a penalty or a forfeiture.³⁴ Cardozo maintained that disbarment is not punishment because its purpose is to maintain a "suspicion-free" bar, not to penalize the attorney.³⁵

22. *Id.*

23. *Id.* at 404, 593 A.2d at 1092.

24. 269 Md. 510, 307 A.2d 677 (1973).

25. *Id.* at 518, 307 A.2d at 681.

26. *Id.* at 515, 520, 307 A.2d at 680, 682.

27. *Id.* at 514, 307 A.2d at 679.

28. *Id.* at 520, 307 A.2d at 682.

29. *Id.*

30. *Id.* at 518, 307 A.2d at 681.

31. *Id.* at 519, 307 A.2d at 682.

32. *Id.* at 520, 307 A.2d at 682.

33. 116 N.E. 782 (N.Y. 1917), *cert. denied*, 246 U.S. 661 (1918).

34. *Id.* at 783.

35. *Id.*

Punishment is left to the criminal justice system.³⁶ The Court of Appeals of Maryland has historically adhered to this policy.

In *Attorney Grievance Commission v. Mandel*,³⁷ the court of appeals quoted the following:

A court has the duty, since attorneys are its officers, to insist upon the maintenance of the integrity of the bar and to prevent the transgressions of an individual lawyer from bringing its image into disrepute. Disciplinary procedures have been established for this purpose, not for punishment, but rather as a catharsis for the profession and a prophylactic for the public.³⁸

The *Mandel* court held that when an attorney is charged with misconduct that involves dishonesty, moral turpitude, fraud, or deceit, and that conduct is committed with the intent to enhance the attorney's own well-being at the expense of a client, disbarment should follow as a matter of course.³⁹ Further, the disbarment sanction is mitigated only by the presence of compelling extenuating circumstances that existed at the time of the crime's commission.⁴⁰ The *Mandel* court referred to the court of appeals' prior delineation of "compelling extenuating circumstances":

Those considerations which potentially could merit this designation, even though the respondent has been convicted of a crime involving moral turpitude, are only those which may cause this Court to view the conviction in a light which tends to show that the respondent's illegal act, committed in violation of a criminal statute, resulted from intensely strained circumstance or that the magnitude and the nature of the crime are not so severe as to compel disbarment.⁴¹

36. *Id.* at 784-85.

37. 294 Md. 560, 451 A.2d 910 (1982).

38. *Id.* at 586, 451 A.2d at 923 (quoting *Maryland State Bar Ass'n v. Agnew*, 271 Md. 543, 549, 318 A.2d 811, 814 (1974) (citing *Balliet v. Baltimore County Bar Ass'n*, 259 Md. 474, 270 A.2d 465 (1970))).

39. *Id.* at 588, 451 A.2d at 923.

40. *Id.*; see also *Attorney Grievance Comm'n v. Molovinsky*, 300 Md. 291, 297, 477 A.2d 1181, 1184-85 (1984) (holding that genuine contrition and rehabilitative efforts did not constitute compelling extenuating circumstances); *Fellner v. Bar Ass'n*, 213 Md. 243, 131 A.2d 729 (1957) (disbarring an attorney for deceitful conduct without considering, as an extenuating circumstance, the attorney's minimal financial gain from the conduct); cf. *Attorney Grievance Comm'n v. Flynn*, 283 Md. 41, 45-47, 387 A.2d 775, 777-78 (1978) (holding that alcoholism, existing at the time of the offense, was a compelling extenuating circumstance).

41. *Mandel*, 294 Md. at 586, 451 A.2d at 922 (quoting *Bar Ass'n v. Siegel*, 275 Md. 521, 527, 340 A.2d 710, 713 (1975)).

The *Mandel* court's characterization of these compelling extenuating circumstances was in keeping with prior Maryland case law.

For example, in *Attorney Grievance Commission v. Flynn*,⁴² the court held that an indefinite suspension was appropriate.⁴³ The court held that the defendant's alcoholism was so compelling as to warrant a sanction less than disbarment.⁴⁴ In that case, however, the attorney's misconduct developed proportionally to the severity of his alcoholism.⁴⁵

In cases where misappropriation of funds is at issue, the court of appeals has usually disbarred the offending attorney. There are, however, a few cases where the court has imposed a sanction other than disbarment. For example, in *Attorney Grievance Commission v. Singleton*,⁴⁶ the court ordered an indefinite suspension. *Singleton* involved the careless management of an escrow account.⁴⁷ Since the attorney's honesty was not at issue in *Singleton*, the sanction imposed did not contravene the policy supporting disbarment for misconduct involving deceit and moral turpitude.⁴⁸

The court of appeals also imposed a sanction other than disbarment in *Prince George's County Bar Ass'n v. Vance*.⁴⁹ Unlike *Bakas*, *Vance* involved forgery.⁵⁰ The defendant committed forgery in order to gain access to a military post exchange.⁵¹ In suspending the attorney, the court considered the nature and gravity of the misconduct along with the attorney's "genuine contrition" and esteem in the community.⁵²

The *Vance* decision seems to be an anomaly, in that "genuine contrition" and esteem in the community are factors not usually considered in cases involving deceitful and dishonest misconduct. In fact, years later, the court, in *Attorney Grievance Commission v. Ezrin*,⁵³ expressly refused to consider the defendant's good character, favorable reputation as a lawyer, lack of previous misconduct, restitution of the stolen property, and cooperation with the authorities in imposing a sanction.⁵⁴ Although the amount of money at issue

42. 283 Md. 41, 387 A.2d 775 (1978).

43. *Id.* at 45-47, 387 A.2d at 778.

44. *Id.*

45. *Id.* at 46, 387 A.2d at 778.

46. 311 Md. 1, 532 A.2d 157 (1987).

47. *Id.* at 16, 532 A.2d at 165.

48. *Cf. Attorney Grievance Comm'n v. Bakas*, 323 Md. 395, 406, 593 A.2d 1087, 1093 (1991) (Bell, J., concurring and dissenting) (stating that the majority's rationale is not supported by prior case law, including *Singleton*).

49. 273 Md. 79, 327 A.2d 767 (1974).

50. *Id.* at 81, 327 A.2d at 768.

51. *Id.*

52. *Id.* at 84, 327 A.2d at 770.

53. 312 Md. 603, 541 A.2d 966 (1988).

54. *Id.* at 609, 541 A.2d at 969.

was considerable in the *Ezrin* case, it is unlikely that the court sanctioned disbarment based on that fact alone. Prior case law dictates that the amount of money is inconsequential when the act in question involves deceit or dishonesty. For example, in *Fellner v. Bar Association*,⁵⁵ an attorney was disbarred for inserting slugs into a parking meter.⁵⁶ The court reasoned that, although the financial gain was small, the misconduct was deliberate and deceitful, thereby warranting disbarment.⁵⁷

IV. ALTERNATIVE APPROACHES

The Court of Appeals of Maryland has repeatedly stated that misappropriation of funds by an attorney, be the amount small or large, coupled with deceit and fraud, is the gravest form of attorney misconduct.⁵⁸ Consequently, a lesser sanction than disbarment is warranted only when there are compelling extenuating circumstances.⁵⁹ Since Bakas' misconduct was couched in deceit and fraud, the court's sanction, an indefinite suspension, was a deviation from the norm.⁶⁰ Although the *Bakas* majority states that compelling extenuating circumstances are present, it fails to disclose the nature of these circumstances.⁶¹ The court merely indicates that it considered "all the circumstances, including the nature and gravity of the misappropriation, and the relatively short period during which Bakas' escrow account was in arrears."⁶² The court should have provided stronger support for its sentencing decision, especially in light of the decision's blatant contradiction with prior case law⁶³ and the effect it will have as precedent on future cases.

55. 213 Md. 243, 131 A.2d 729 (1957).

56. *Id.* at 247, 131 A.2d at 731.

57. *Id.* at 247, 131 A.2d at 731-32.

58. *See, e.g.*, *Bar Ass'n v. Marshall*, 269 Md. 510, 519, 307 A.2d 677, 682 (1973) (citing *Balliet v. Baltimore County Bar Ass'n*, 259 Md. 474, 479, 270 A.2d 465, 468 (1970); *In re Lombard*, 242 Md. 202, 218 A.2d 208 (1966); *In re Williams*, 180 Md. 689, 23 A.2d 7 (1941)).

59. *Attorney Grievance Comm'n v. Bakas*, 323 Md. 395, 404, 593 A.2d at 1087, 1092 (1991) (Bell, J., concurring and dissenting).

60. *Id.* (citing *In re Murray*, 316 Md. 303, 308, 558 A.2d 710, 712 (1989); *Attorney Grievance Comm'n v. Sparrow*, 314 Md. 421, 426-27, 550 A.2d 1150, 1152 (1988), *petition for reinstatement denied*, 319 Md. 700, 575 A.2d 330 (1990); *Attorney Grievance Comm'n v. Ezrin*, 312 Md. 603, 608-09, 541 A.2d 966, 969 (1988); *Attorney Grievance Comm'n v. Nothstein*, 300 Md. 667, 687, 480 A.2d 807, 817 (1984); *Attorney Grievance Comm'n v. Molovinsky*, 300 Md. 291, 296, 477 A.2d 1181, 1184 (1984); *Attorney Grievance Comm'n v. Pattison*, 292 Md. 599, 609, 441 A.2d 328, 333 (1982); *Attorney Grievance Comm'n v. Burka*, 292 Md. 221, 225, 438 A.2d 514, 517 (1981)).

61. *Id.* at 405-06, 593 A.2d at 1093.

62. *Id.* at 403-04, 593 A.2d at 1091-92.

63. *See id.* at 404, 593 A.2d at 1092 and cases cited therein.

As indicated in the *Marshall* and *Mandel* decisions, disbarment is appropriate whenever the offense involves deceit or dishonesty. The rationale for such a stringent sentence lies in the court's desire to protect the public from an impure legal system.⁶⁴ In light of this policy consideration, the amount of misappropriated funds or the length of time the escrow account was in arrears is irrelevant.⁶⁵ The importance lies in the fact that the attorney violated the very system he is supposed to uphold.

The court of appeals has historically held that intensely strained circumstances present at the time of the commission of the crime constitute compelling extenuating circumstances.⁶⁶ As noted previously, in *Attorney Grievance Commission v. Flynn*,⁶⁷ the court of appeals ordered an indefinite suspension after holding that the attorney was guilty of, *inter alia*, neglecting legal matters and commingling clients' funds with his own.⁶⁸ The court found that Flynn's misconduct developed proportionately to the development of his alcoholism and other problems. Therefore, his misconduct resulted, to a substantial extent, from these maladies, including alcoholism.⁶⁹ Bakas, on the other hand, functioned competently for many years while suffering with alcoholism.⁷⁰ The causal connection present in *Flynn* was, therefore, missing in *Bakas*.

The *Flynn* court emphasized that it was not "softening [its] revulsion for misuse by an attorney of his clients' funds,"⁷¹ because the indefinite suspension would not be terminated unless the attorney could demonstrate, by clear and convincing evidence amounting to a moral certainty, that he was able to overcome the malady from which he suffered and complete rehabilitation so that the misconduct would not be repeated.⁷²

The court of appeals, in *Bar Ass'n v. Marshall*,⁷³ emphasized that the concept of trust is the crux of the attorney-client relationship,

64. *Balliet v. Baltimore County Bar Ass'n*, 259 Md. 474, 478, 270 A.2d 465, 468 (1970).

65. *Bar Ass'n v. Marshall*, 269 Md. 510, 519, 307 A.2d 677, 682 (1973) (citing *Balliet v. Baltimore County Bar Ass'n*, 259 Md. 474, 270 A.2d 465 (1970); *In re Lombard*, 242 Md. 202, 218 A.2d 208 (1966); *In re Williams*, 180 Md. 689, 23 A.2d 7 (1941)).

66. *Attorney Grievance Comm'n v. Mandel*, 294 Md. 560, 586, 451 A.2d 910, 922 (1982) (citing *Attorney Grievance Comm'n v. Flynn*, 283 Md. 41, 387 A.2d 775 (1978); *Bar Ass'n v. Siegel*, 275 Md. 521, 527, 340 A.2d 710, 713 (1975)).

67. 283 Md. 41, 387 A.2d 775 (1978).

68. *Id.* at 45-46, 387 A.2d at 778.

69. *Id.*

70. *Attorney Grievance Comm'n v. Bakas*, 323 Md. 395, 403, 593 A.2d 1087, 1091 (1991).

71. *Flynn*, 283 Md. at 46-47, 387 A.2d at 778.

72. *Id.*

73. 269 Md. 510, 307 A.2d 677 (1973).

with the attorney acting as "trustee" for the client in all of his endeavors.⁷⁴ The court specifically noted the importance of trust with respect to the handling of client funds.⁷⁵ According to the court, attorneys must constantly keep the notion of this trust in mind, as well as the fact that they "are strictly accountable for their conduct in administering that trust, so they dare not appropriate those funds and properties for their personal use."⁷⁶ The court concluded that "misappropriation of funds . . . be the amount small or large, is of great concern and represents the gravest form of professional misconduct."⁷⁷ Since it is trust, and not the amount of money, that is at the heart of the attorney-client relationship, the amount of money at issue is inconsequential. If an attorney breaches this trust, he has failed in his duties. It follows, therefore, that only the most compelling circumstances can warrant a lesser sanction than disbarment.

Prior case law establishes that compelling extenuating circumstances need not be present in the absence of deceit or dishonesty in order to warrant a lesser sanction than disbarment, as evidenced by the court of appeals' holding in *Singleton*. In contrast to the facts of *Bakas*, the attorney's honesty was not at issue in *Singleton*.⁷⁸ The *Singleton* court found no evidence of fraud or deceit, and the only issue was the lawyer's "ineptitude in managing the escrow account."⁷⁹

It does seem unfair, however, to sanction *Bakas* in the same manner as attorneys who have misappropriated a greater amount of funds for a longer time period. Counterbalancing this moral unfairness, however, is the abundance of case law and strong public policy which supports disbarment when the misconduct involves deceit or dishonesty. Perhaps the legal justification underlying disbarment will change over time if more cases are decided similar to *Bakas*. At this juncture, however, it appears as though *Bakas* is an aberration. As professed in *Marshall*,

a lawyer's duty is a high one which, because of the nature of the relationship that exists between an attorney and his client, embraces moral standards that are more stringent than those applicable to others. . . . The very administration of justice under our adversary system is dependent upon

74. *Id.* at 519, 307 A.2d at 682.

75. *Id.*

76. *Id.*

77. *Id.*

78. Attorney Grievance Comm'n v. Bakas, 323 Md. 395, 406, 593 A.2d 1087, 1093 (1991) (citing Attorney Grievance Comm'n v. Singleton, 311 Md. 1, 16, 532 A.2d 157, 163 (1987)).

79. *Id.* (citing *Singleton*, 311 Md. at 16, 532 A.2d at 165).

the ability of members of the public as well as the courts to rely on the integrity of counsel⁸⁰

Under the facts of *Bakas*, a sanction less than disbarment contradicts the policy of protecting society from people unworthy to practice law.

In addition, by distinguishing between serious misappropriations and those that do not involve a substantial amount of money, the court in *Bakas* deviated from its strict rule of disbarment for misappropriation. What may be a minimal amount of money to the court may be a significant loss to the client. The court should not place a value judgment on how much a client's property is worth to him or her, especially in light of the aforementioned policy of protecting the courts and the public in their reliance on the integrity of legal counsel.

By merely suspending attorneys who misappropriate small amounts, the court is taking on the role of the criminal justice system, punishing the attorney in proportion to the severity of the crime. The court does not treat misappropriation uniformly when the intent behind all misappropriations is the same, *i.e.*, to steal. The impression this leaves is that stealing a little is not as serious as stealing a lot. This rationale is sufficient for the criminal justice system in which an element of sentencing is punishment;⁸¹ as repeated in so many cases, however, the purpose behind disciplinary actions is to protect society, not to punish the attorney.⁸² The holding of the *Bakas* court fails to take responsibility for the integrity of the profession. Instead it implies to the public that the court will tolerate this type of conduct as long as the amount of the money stolen is not, in its estimation, substantial.

V. CONCLUSION

With the lagging economy, there is more motivation for misconduct involving finances and the misappropriation of funds. A holding such as the one in *Bakas* does not make sense if protecting the public from unscrupulous lawyers is to remain an objective of disciplinary actions. Decisions like *Bakas* could affect how the public views the profession. As stated by the *Marshall* court:

80. *Marshall*, 269 Md. at 518-19, 307 A.2d at 682.

81. *Id.* at 519, 307 A.2d at 682.

82. See Attorney Grievance Comm'n v. Mandel, 294 Md. 560, 586, 451 A.2d 910, 923 (1982) (citing Maryland State Bar Ass'n v. Agnew, 271 Md. 543, 318 A.2d 811 (1974)); Attorney Grievance Comm'n v. Engerman, 289 Md. 330, 346, 424 A.2d 362, 370 (1981); Maryland State Bar Ass'n v. Sugarman, 273 Md. 306, 329 A.2d 1 (1974), *cert. denied*, 420 U.S. 974 (1975).

To this, we add that of no small concern to the general membership of the bar should be the fact that the standing in the community of the legal profession is frequently measured by the deviations of the dishonest few rather than by the standard of great devotion and honor which is set by the vast majority of members of the fraternity.⁸³

It is the court's obligation, therefore, to withdraw unworthy attorneys from the practice of law. To fail to do so could both perpetuate and reinforce the legal system's damaged reputation and represent to the public that offending attorneys possess the basic qualities traditionally associated with the more honorable members of the bar of this state.⁸⁴

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83. *Marshall*, 269 Md. at 519, 307 A.2d at 682.

84. *Id.* at 520, 307 A.2d at 682.