

1 Case Number: OBC16-1079



FILED

NOV 29 2017

STATE BAR OF NEVADA

BY: Soni Del Rio  
OFFICE OF BAR COUNSEL

7 STATE BAR OF NEVADA

8 SOUTHERN NEVADA DISCIPLINARY BOARD

9 STATE BAR OF NEVADA, )

10 Complainant, )

11 vs. )

12 ROBERT A. KOENIG, ESQ. )  
STATE BAR NO. 3203 )

13 Respondent. )

LETTER OF REPRIMAND

14 \_\_\_\_\_ )  
15 TO: Robert A. Koenig, Esq.  
16 c/o William A. Terry, Esq.  
17 530 S. Seventh Street  
Las Vegas, Nevada 89101

18 This matter came before a Formal Hearing Panel on November 28, 2017. The  
19 Formal Hearing Panel accepted your Conditional Guilty Plea to violating RPC 5.1  
20 (Responsibilities of Partners, Managers, and Supervisory Lawyers) and found the  
21 following:

22 From February 4, 2005, to September 28, 2016, "Alessi & Koenig" was a Domestic  
23 Limited-Liability Company registered with the Nevada Secretary of State. You and David  
24 A. Alessi ("Alessi") were the registered managing officers of Alessi & Koenig.

25

1           You are licensed to practice law in California and Nevada. Alessi obtained his Juris  
2    Doctorate from the University of LaVerne College of Law in Ontario, California. He has  
3    been licensed to practice law in California since 2004; however, he is not licensed to  
4    practice law in Nevada.

5           At all times relevant hereto, Alessi & Koenig was registered as a Multijurisdictional  
6    Practice ("MJP") in Nevada, in accordance with RPC 7.5A. The Alessi & Koenig MJP  
7    Applications submitted to the State Bar on October 8, 2015, and January 12, 2016, identify  
8    you as the Managing Partner/Principal Shareholder applicant for MJP status, certifying  
9    that the information contained in the Application and its attachments is true and correct.  
10   The MJP applications identify addresses for the firm in Las Vegas, Nevada and Agoura  
11   Hills, California. Despite being the only Nevada-licensed partner at Alessi & Koenig and  
12   the identified Managing Partner/Principal Shareholder applicant for the MJP Application,  
13   Respondent did not participate in the completion, and submission, of the MJP Application.

14           You have always practiced law in Agoura Hills, California, under a different firm  
15   name, and you have never practiced in the Las Vegas office of Alessi & Koenig. Instead you  
16   have always deferred to California-licensed Alessi for operation of that office. Nonetheless,  
17   you received \$400- \$2,250 per month as a partner in Alessi & Koenig.

18           Alessi & Koenig employed Thomas J. Bayard ("Bayard"); Bayard obtained his Juris  
19   Doctorate from the University of LaVerne College of Law in Ontario, California, and was  
20   licensed to practice law in California 2003. Bayard is not licensed to practice law in  
21   Nevada. Although you initially objected to the firm employing Bayard, you did not prevent  
22   it, insist on particular office procedures because of it, or change your involvement in the  
23   Las Vegas office of the firm to address your concerns about Bayard.

24           In January 2012, Bayard was subject to a two-year suspension of his California Bar  
25   license, with 60 days being actually served and the balance being stayed with Bayard

1 placed on four years of probation. Bayard was also suspended for one year from the  
2 practice of law in California on October 11, 2015, based on a Recommendation filed April  
3 11, 2015.

4 On June 30, 2016, at a Judgment Debtor Examination, Bayard was the designated  
5 Alessi & Koenig witness to testify as the person most knowledgeable concerning the firm's  
6 finances and business practices. Bayard was suspended from practicing law when the  
7 examination took place.

8 The Wells Fargo Bank, Nevada IOLTA account for Alessi & Koenig (ending 6484)  
9 identifies you, Alessi, and Bayard each as a "Key Executive with Control of the Entity" of  
10 Alessi & Koenig, with each being named as an "Owner/Key Individual" on the IOLTA  
11 account, and all being identified as signatories for the account. Alessi's and your  
12 position/title on the account is identified as "Attorney"; Bayard's position/title is identified  
13 as "Lawyer." Bayard was not removed from the Nevada IOLTA for A&K when he was  
14 suspended. You did not participate in the management of the Nevada IOLTA account,  
15 relying instead on Alessi and Bayard to properly handle that account.

16 For the entirety of Alessi & Koenig firm's existence, you practiced law solely out of  
17 the office in California and minimally participated in the supervising of attorneys in the  
18 Nevada offices of Alessi & Koenig. Your supervision consisted of assisting and consulting  
19 with Alessi & Koenig attorneys regarding personal injury matters. You did not participate  
20 in office management in the Las Vegas office of Alessi & Koenig or any of the  
21 representations in the HOA-related matters.

22 Nonetheless, you were aware of issues with the office management at Alessi &  
23 Koenig no later than 2011; however, you did not increase your participation in the  
24 management of the Las Vegas office of the firm or otherwise take reasonable measures to  
25 ensure that the Rules of Professional Conduct were being followed within the firm. You

1 did occasionally try to instruct Alessi and Bayard about conducting the Alessi & Koenig  
2 office in a manner consistent with the Rules of Professional Conduct, but you did not  
3 confirm that changes were made in the Alessi & Koenig office or increase your presence in  
4 the Alessi & Koenig office to ensure that your instructions were followed.

5 As with all other matters pending in the Las Vegas, Nevada office of Alessi & Koenig,  
6 you did not participate in the prosecution or strategy of HOA-litigation matters. All  
7 partner-level decisions in the Las Vegas, Nevada office were made by Alessi and Bayard.  
8 You were so detached from the Alessi & Koenig office in Las Vegas that you were unaware  
9 of the *Big Mountain* proceedings and the firm's failure to comply with the Court's Orders  
10 in that matter.

11 In 2016, you did disassociate yourself from Alessi, and the firm Alessi & Koenig,  
12 because they filed a Complaint under your name without your permission.

### 13 Violation of the Rules of Professional Conduct


14 Pursuant to RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers),  
15 you had a duty to make reasonable efforts to ensure that the Alessi & Koenig office in Las  
16 Vegas, Nevada was conforming with the Rules of Professional Conduct. You were on  
17 notice that the administration of the Alessi & Koenig Las Vegas office was most likely  
18 generally not complying with the Rules of Professional Conduct but you failed to take  
19 additional reasonable measures to remedy the situation.

20 You knowingly violated RPC 5.1 when you failed to monitor what was happening in  
21 the Alessi & Koenig Las Vegas, Nevada office and the office (i) submitted untruthful MJP  
22 Applications without your review, consent or actual signature, (ii) had non-Nevada  
23 licensed attorneys, including a California-suspended attorney, directing the Nevada IOLTA  
24 account, which included failing to timely distribute funds, and (iii) had associate attorneys  
25 failing to comply with Court Orders in the *Big Mountain* litigation.

1 The Panel has also considered that (i) you were previously disciplined for a violation  
2 of RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants) in conjunction with conduct  
3 in the Alessi & Koenig office, (ii) your conduct was motivated, at least in part, by the  
4 threatening nature of Alessi and Bayard, (iii) you have fully and freely disclosed what you  
5 know about the Las Vegas office of Alessi & Koenig and cooperated with the State Bar and  
6 (iv) you have exhibited remorse for your part in facilitating the conduct of the others at the  
7 Las Vegas office of Alessi & Koenig. In consideration of these additional factors, the Panel  
8 finds that the appropriate discipline in this instance is less than the presumptive sanction of  
9 a suspension.

10 In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 5.1  
11 (Responsibilities of Partners, Managers, and Supervisory Lawyers) and are hereby  
12 REPRIMANDED.

13  
14 DATED this 29 day of November, 2017.

15  
16 By:   
17 Oliver Pancheri, Esq.  
18 Formal Hearing Panel Chair  
19 Southern Nevada Disciplinary Board  
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