

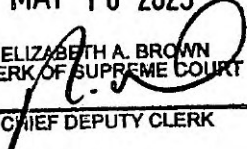
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
KEVIN D. HOLTMAN, BAR NO. 11603.

No. 86300

FILED

MAY 16 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF DISBARMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Kevin D. Holtman be disbarred based on violations of RPC 1.4 (communication), RPC 1.15 (safekeeping property), and RPC 8.4 (misconduct).

The State Bar has the burden of showing by clear and convincing evidence that Holtman committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). Here, however, the facts and charges alleged in the complaint are deemed admitted because Holtman failed to answer the complaint and a default was entered. SCR 105(2). The record therefore establishes that Holtman violated the above-referenced rules by receiving settlement funds on behalf of two clients and failing to inform them of the settlement or pay any of the funds to the clients or to the medical liens associated with their case. Holtman also failed to pay medical liens on behalf of other clients. And a review of Holtman's trust account revealed that Holtman made numerous unexplained withdrawals and wrote large checks to himself, some of which Holtman deposited in his firm's operating account. Holtman also failed to respond to the Bar's requests for information.

As for the appropriate discipline for these violations, we review the hearing panel's recommendation de novo, although the panel's recommendation is persuasive. SCR 105(3)(b); *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). To determine the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating or mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Holtman knowingly violated duties owed to his clients, the legal system, and the profession. Holtman's clients and their lienholders suffered actual injury because Holtman did not pay them the funds to which they were entitled. And Holtman's failure to cooperate with the State Bar's investigation harmed the integrity of the profession, which depends on a self-regulating disciplinary system.

The baseline sanction before considering aggravating or mitigating circumstances is disbarment. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Rules and Standards*, Standard 7.1 (Am. Bar Ass'n 2017) (recommending disbarment "when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public or the legal system"). The record supports the panel's findings of five aggravating circumstances (prior disciplinary offenses, dishonest or selfish motive, a pattern of misconduct, multiple offenses, and substantial experience in the practice of law) and that no mitigating circumstances applied. Holtman's prior discipline is particularly relevant. In particular, we suspended Holtman for three years in 2021, *In re Discipline of Holtman*, No. 82993,

2021 WL 4399344 (Nev. Sept. 24, 2021) (Order of Suspension), based on violations of RPC 1.3 (diligence), RPC 1.4 (communication), and RPC 8.1 (bar disciplinary matters), and for two years and one day in 2022, *In re Discipline of Holtman*, No. 83770, 2022 WL 278368 (Nev. Jan. 28, 2022) (Order of Suspension), based on violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 3.2 (expediting litigation), and RPC 8.1 (bar disciplinary matters). Having considered the four factors, we agree with the panel that disbarment is appropriate.

Accordingly, we disbar attorney Kevin D. Holtman from the practice of law in Nevada. Such disbarment is irrevocable. SCR 102(1). Holtman shall pay the costs of the disciplinary proceedings, including \$3,000 under SCR 120, within 30 days of the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

Stiglich, C.J.
Stiglich

Cadish, J.
Cadish

Pickering, J.
Pickering

Herndon, J.
Herndon

Lee, J.
Lee

Parraguirre, J.
Parraguirre

Bell, J.
Bell

cc: Chair, Southern Nevada Disciplinary Board
Kevin D. Holtman
Bar Counsel, State Bar of Nevada
Executive Director, State Bar of Nevada
Admissions Office, U.S. Supreme Court