

1 Case Number: SBN23-00025 and SBN23-00656



FILED

FEB 08 2024

STATE BAR OF NEVADA

BY *[Signature]*  
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

7 STATE BAR OF NEVADA, )  
8 )

Complainant, )

9 vs. )

REPRIMAND

10 DOUGLAS FERMOILE, ESQ. )

STATE BAR NO. 662 )

11 Respondent. )  
12 )

13 TO: Douglas Fermoile, Esq.  
14 147 E. Liberty St.  
Reno, NV 89501

15 This Public Reprimand reflects your failure to adequately communicate with two  
16 separate clients, Atlantic-Pacific Agricultural Co, Inc. ("Atlantic-Pacific") and Silver State  
17 Elevator, for whom you served as registered agent.

18 You served as counsel and registered agent for Atlantic-Pacific, a Nevada  
19 corporation, for several years. Between January 2022 and January 2023, the president of  
20 Atlantic-Pacific attempted to contact you by phone, fax, email and mail between January  
21 2022 and January 2023 and did not receive any response. The president was attempting  
22 to request delivery of Atlantic-Pacific corporate documents that were in your possession.

23 In addition to the President's direct efforts, General Counsel for Atlantic-Pacific sent  
24 you a letter on November 7, 2022, requesting items from Atlantic-Pacific's file. Although  
25 you represent that you spoke with the General Counsel on the phone and sent an invoice

1 for the shipping costs of the requested documents, the General Counsel has no record of a  
2 response to his request.

3       You did not follow up with the President or the General Counsel regarding the  
4 requested documents and your request for advance payment of shipping and handling  
5 costs.

6       In January 2023, Atlantic-Pacific's president informed the State Bar of  
7 Respondent's lack of response. As a result, the State Bar sent you a letter of investigation  
8 requesting an explanation of your failure to communicate with them. In March 2023, you  
9 provided the "shipping costs' invoice to the State Bar as part of your response to the  
10 grievance. The State Bar forwarded the invoice to the General Counsel on or about March  
11 24, 2023. Six days later, he sent the requested \$100 to you.

12       You deposited the check on April 18, 2023. Despite knowing since January 25, 2023,  
13 that your client still wanted the documents forwarded and depositing the requested  
14 payment in April, 2023, you did not mail the requested documents until May 21, 2023. The  
15 General Counsel received the documents on May 25, 2023.

16       You also served as Silver State Elevator's Resident Agent since at least 2019. In  
17 October 2022, Silver State Elevator sent you a \$750 check for the filing of Silver State's  
18 annual documents and asked to revise the company's list of officers and arrange for some  
19 company shares to be gifted to others before the annual documents were filed.

20       On or about October 20, 2022, you met with Ernest Rosaia, President of Silver State  
21 Elevator, in your office and discussed the requested additional tasks. Rosaia believed that  
22 the additional tasks could not be accomplished before the filing deadline of October 31,  
23 2022, and therefore, the annual documents would be filed with the historical information.  
24 You believed that Rosaia wanted to wait to file the annual documents until he had decided  
25 how to amend the list of officers and distribute company shares. You did not file the annual

1 documents before the October 31, 2022 deadline. You also did not confirm that Rosaia  
2 wanted to wait to file or follow-up with Rosaia for the additional information.

3 Starting in November 2022, Rosaia left you several phone messages and emailed  
4 you requesting information about the filing he assumed had been completed. But Rosaia  
5 received no response.

6 Rosaia discovered that the annual filings had not been done and then found another  
7 commercial registered agent who filed Silver State Elevator's annual list and paid the filing  
8 and late fees on Silver State Elevator's behalf.

#### 9 Violations of the Rules of Professional Conduct

10 RPC 1.4 (Communication) provides that lawyers have a duty to (i) "reasonably  
11 consult with the client about the means by which the client's objectives are to be  
12 accomplished;" (ii) "keep the client reasonably informed about the status of the matter;"  
13 and (iii) "promptly comply with reasonable requests for information.

14 You negligently violated RPC 1.4 when you failed to follow-up with these clients  
15 regarding achieving their objectives and/or promptly respond to the client's attempts to  
16 communicate. Your clients were minimally injured. , and could have been greatly injured  
17 by Respondent's violation of RPC 1.4.

#### 18 Application of the ABA Standards for Imposing Lawyer Sanctions

19 ABA Standard 4.43 provides "[r]eprimand is generally appropriate when a lawyer is  
20 negligent and does not act with reasonable diligence in representing a client, and causes  
21 injury or potential injury to a client." ABA Standard 4.44 provides "[a]dmonition is  
22 generally appropriate when a lawyer is negligent and does not act with reasonable diligence  
23 in representing a client, and causes little or no actual or potential injury to a client."

24 Although Standard 4.44 might best apply to the foregoing facts, the aggravating  
25 factors of your (i) prior discipline for a similar violation of RPC 1.4 (Communication) and

1 (ii) substantial experience in the practice of law, the sanction of a Reprimand is  
2 appropriate.

3 **REPRIMAND**

4 In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 1.4  
5 (Communication) and are hereby REPRIMANDED. Please promptly conclude this matter  
6 by remitting the cost of \$1,500 within 30 days of the issuance of this sanction. SCR 120(3).

7 DATED this 8<sup>th</sup> day of February, 2024.

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10 By:   
11 ERIC STOVALL, ESQ.  
12 Formal Hearing Panel Chair  
13 Northern Nevada Disciplinary Board  
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