

STATE BAR OF NEVADA

LETTER OF REPRIMAND

August 4, 2022

Douglas Fermoile, Esq.
Bar No. 662
147 E. Liberty St.
Reno, NV 89501

dkflaw@aol.com

Re: State Bar of Nevada Disciplinary Grievance SBN22-00015



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Dear Mr. Fermoile:

A Screening Panel of the Northern Nevada Disciplinary Board has reviewed the above-referenced grievances and unanimously determined that a Letter of Reprimand be issued for violations of Rules of Professional Conduct ("RPC") 1.4 (Communication).

GRIEVANCE

In late June 2021, two clients retained you to revise their estate planning documents for a flat fee of \$900.

You mailed the revised documents to the clients' Arizona address. You asserted that mail was used because the clients do not use email. You assumed that the Priority Mail package was received by the clients because it was not returned as undeliverable. However, your clients did not receive the package.

In Fall 2021, the clients attempted to contact you multiple times to inquire about the status of the documents, which they had not yet received. They were unable to reach you, or anyone else in your office, until November 2021. In November, your assistant returned the clients' call and they informed her that they had not received the revised documents. In response, in late December 2021, you resent the documents, again by Priority mail. The clients confirmed, via email, to the State Bar that they received the December package. However, in the meantime, they had lost faith in your ability to perform the requested work and retained a new attorney.

VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT

Your conduct related to representation of the foregoing clients, violated RPC 1.4 (Communication).

RPC 1.4 (Communication) requires a lawyer (i) keep the client reasonably informed about the status of the matter and (ii) promptly comply with reasonable requests for information. You violated RPC 1.4 (Communication) by failing to (i) respond

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to the clients' attempts to communicate between June and November 2021 and (ii) provide the requested documents in a timely manner.

APPLICATION OF THE ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS

ABA Standard 4.43 provides that "reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client." ABA Standard 4.42 provides that "suspension is generally appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or (ii) a lawyer engages in a pattern of neglect [and] causes injury or potential injury to a client."

Your failure to timely provide the documents prior to November 2021 may have been negligent because you were unaware that the clients had not received them. However, your failure to respond to the client's attempts to communicate between June and November was knowing and substantially contributed to the delay in the clients' receipt of the requested documents. It is also concerning that once you knew the clients had not received the documents, you did not resend them for weeks.

In addition, your failure to adequately communicate with your clients caused them injury because they were delayed in their estate planning. The clients' expressed "loss of faith" shows injury to the integrity of the profession.

Considering the minimal nature of the injury and what appears to be isolated instance of misconduct, it is appropriate to issue a reprimand sanction instead of a suspension. In Nevada, a reprimand can be a Public Reprimand or a Letter of Reprimand, with the letter being the lowest form of discipline available. Taking into consideration your absence of prior discipline in the last seven years, the Panel finds that the lesser of the two sanction is appropriate.

REPRIMAND

Based upon the foregoing, you are hereby REPRIMANDED for your negligent violation of RPC 1.4 (Communication).

Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$1,500.

Sincerely,



Richard Williamson (Aug 1, 2022 09:09 PDT)

Richard Williamson, Esq.,
Screening Panel Chair
Northern Nevada Disciplinary Board

RW/rkf