



FILED

JUN 30 2014

Case Nos. SG10-0686, SG10-0526, SG10-0710
SG10-0790, SG10-0911, SG11-0261,
SG11-0381, SG11-0509, SG11-0530,

STATE BAR OF NEVADA

BY: *[Signature]*
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
 Complainant,)
)
 vs.)
)
 JOHN C. FERNANDEZ, ESQ.,)
 BAR No. 8451,)
)
 Respondent.)
)

PUBLIC REPRIMAND

TO: JOHN C. FERNANDEZ, ESQ.
Bar No. 8451
6250 Mountain Vista St., Suite L2
Henderson, NV 89014

1. On or about December 15, 2010, in response to grievances pending against you, State Bar Investigator Theresa Freeman ("Freeman") attempted to contact you by telephone, but your SCR 79 (Disclosures by members of the bar) phone number was disconnected, and the voice mailbox of your cell phone was full.

2. Freeman also sent an email to the email address listed for you in the State Bar's records. When no response was received, an attempt was made to have you personally served with a subpoena, but that attempt was unsuccessful.

3. On or about March 9, 2011, after successful contact was made, you met with Bar Counsel David Clark and reported that in or about September 2010 you had been diagnosed with impetigo. However, the diagnosis of impetigo was incorrect; physicians subsequently diagnosed you as suffering from erythrodermic psoriasis and psoriatic arthritis. The erythrodermic psoriasis had affected most of your body surface; the psoriatic arthritis

1 had affected your joints. Both the erythrodermic psoriasis and psoriatic arthritis caused you
2 to suffer severe pain in your skin and joints.

3 4. You acknowledged that as a result of your illnesses, you had been unable to
4 attend to your clients' needs, and your solo practice had fallen apart. However, you were
5 now receiving treatment and felt better, and sought the State Bar's guidance on how to
6 resolve any outstanding issues with your clients.

7 5. Bar Counsel advised you to:

- 8 a. Inventory your files;
- 9 b. Contact all your clients, let them know your status, and ask them if they
10 wished to remain with you as their attorney or find other counsel;
- 11 c. Give files and/or refunds to those clients that wished to find new
12 counsel;
- 13 d. Respond to any pending grievances with the State Bar by March 30,
14 2011.

15 **SG10-0686/Marilyn Dennis**

16 6. Marilyn Dennis ("Dennis") retained you to represent her in a civil matter
17 pertaining to her home.

18 7. On or about October 4, 2010, Dennis grieved to the State Bar that she had not
19 been able to reach you by email, text message, or phone, and mediation in her matter was
20 scheduled for Friday October 8, 2010.

21 8. On October 11, 2010, Dennis further grieved to the State Bar that you had
22 failed to appear for the mediation on October 8, 2010.

23 9. On October 12, 2010, the State Bar sent a letter to your SCR 79 address, via
24 certified and regular mail, asking you to respond to this grievance. The certified letter receipt
25 was signed for by an individual with the initials "M.O." on October 14, 2010, and returned to

1 the State Bar. However, both letters were eventually returned by the Post Office with the
2 indication "attempted not known."

3 10. On November 19, 2010, the State Bar sent you a second letter, via certified
4 and regular mail, to your SCR 79 address. The certified letter receipt was signed for by an
5 individual with the initials "M.O." on November 22, 2010, and returned to the State Bar.
6 However, both letters were eventually returned by the Post Office with the indication
7 "attempted not known."

8 11. In your response to the State Bar following the meeting with Bar Counsel,
9 received on March 30, 2011, you claimed that on September 30, 2010, you had reported to
10 the Emergency Room at University Medical Center and were suspected of having a serious
11 virus. As such, you faxed a letter to the mediator, Benjamin Childs, requesting that the
12 mediation be vacated until further notice. However, the mediation was conducted *in*
13 *absentia*.

14 12. Dennis retained new counsel, but you failed to refund any fees paid to you by
15 Dennis.

16 ***SG10-0526/Elizabeth Pesco***

17 13. In or about March 2005, Elizabeth Pesco ("Pesco") retained you to represent
18 her as the Personal Representative of her sister Elaine Lentino's ("Lentino") estate, and to
19 represent the estate in a civil matter regarding Lentino's son, Richard. Lentino, her daughter,
20 and her grandson were killed by Richard, so Pesco was trying to remove him as heir to
21 Lentino's estate.

22 14. On September 27, 2010, Pesco grieved to the State Bar that she had begun to
23 experience trouble contacting you in the summer of 2009. You did contact her in September
24 2009, and explained that you had been unwell, but now she had not heard from you since
25 July 2010 despite numerous attempts to contact you.

1 15. The court in the civil matter required that Richard be represented by counsel.
2 You suggested they serve Richard's father, who was an attorney in New York, and ask him
3 to be the guardian of Richard's estate. Pesco gave you an additional \$500 to pay for the
4 father to be served in New York.

5 16. In or about July 2010, after the father was unable to be served by process
6 service, you were to publish service in the local New York paper where the father resided,
7 but Pesco did not hear further from you.

8 17. On October 25, 2010, the State Bar sent a letter of investigation to you at his
9 SCR 79 address, asking you to respond to this grievance, with no response.

10 18. In your response to the State Bar following the meeting with Bar Counsel,
11 received on March 30, 2011, you stated that you were still attempting to obtain written
12 verification that service was made on the father in New York, and once you had that
13 documentation you would be able to proceed with litigation.

14 19. Pesco retained new counsel who filed the Complaint in the civil case against
15 Richard on April 12, 2011.

16 ***SG10-0710/Ronald and Kimberly Carbone***

17 20. On or about November 7, 2007, Ronald and Kimberly Carbone ("Carbones")
18 retained you to represent their interests in the matter of the Trust of Ronald Ralph Carbone.

19 21. In or about May 2009, you received a check for \$39,448 from the Trust
20 representing funds from the sale of a residence in the Trust. You advised the Carbones that
21 you planned to hold the check until the final accounting was filed by the Trustee, thereby
22 insuring no improprieties had occurred with the Trust. You advised the Carbones that if you
23 were to negotiate the check it would indicate that you were satisfied that the Trust was
24 handled properly.

25

1 22. On October 18, 2010, the Carbones grieved to the State Bar that you had
2 always been slow to respond to phone calls, but they had been unable to reach you or your
3 law clerk at all since July 2010, and you were in receipt of funds belonging to them that had
4 been distributed by the Trust.

5 23. On October 21, 2010, the State Bar sent you a letter, via certified and regular
6 mail, to your SCR 79 address. The certified letter receipt was signed for by an individual with
7 the initials "H.R." on October 22, 2010, and returned to the State Bar. However, both letters
8 were eventually returned by the Post Office with the indication "attempted not known."

9 24. In your response to the State Bar following the meeting with Bar Counsel,
10 received on March 30, 2011, you stated that the delay in the case was caused by the Trustee
11 and his attorney not providing you with a requested accounting and supporting
12 documentation, but you had received the documentation now and could move forward.

13 25. On March 30, 2011, you sent a cashier's check to the Carbones dated April 30,
14 2009, for \$39,448.

15 26. On April 6, 2012, State Bar Investigator Louise Watson ("Watson") spoke with
16 Ronald Carbone and confirmed that he had received the funds from the Trust and that all
17 concerns he had regarding your representation were now resolved.

18 ***SG10-0790/Roger Carroll***

19 27. On or about August 12, 2009, Roger Carroll ("Carroll") retained you to handle a
20 probate estate matter that involved transferring the title of property owned by the deceased.

21 28. On November 2, 2010, Carroll grieved to the State Bar that he had not been
22 able to contact you since he received a letter from you dated July 28, 2010, and did not know
23 the status of his case.

24 29. On November 17, 2010, the State Bar sent a letter to your SCR 79 address
25 asking you to respond to this grievance, but it was returned by the Post Office.

1 30. In your response to the State Bar following the meeting with Bar Counsel,
2 dated March 30, 2011, you stated that you would be recording the executed Quitclaim Deed
3 with the Office of Recorder for Clark County on March 31, 2011, and when you received a
4 copy of the conformed Quitclaim Deed, you would send a new Quitclaim Deed to the client to
5 be executed, which would fulfill your obligation to your client.

6 31. On July 25, 2011, Freeman contacted you for an update and was advised that
7 Carroll remained your client, and you were currently working on getting the new Quitclaim
8 Deed recorded.

9 32. On April 13, 2012, the State Bar sent an additional letter to you, via regular and
10 certified mail, asking for another update on this matter. You signed for the certified letter on
11 April 23, 2012, but failed to respond further to the State Bar.

12 33. Watson reviewed the records on the website for the Clark County Assessor's
13 Office and found that a new Quitclaim Deed in Carroll's matter was recorded on November
14 29, 2011, but it was prepared and signed by Elizabeth MacDowell of the Thomas and Mack
15 Legal Clinic at the University of Nevada – Las Vegas.

16 ***SG10-0911/Deseree Palafox***

17 34. Deseree Palafox ("Palafox") retained you to represent her in mediation on a
18 property in Henderson.

19 35. On November 18, 2010, Palafox grieved to the State Bar that she had been
20 unable to contact you, could not afford a new attorney, and was concerned because she had
21 provided you original documents for your file.

22 36. On December 10, 2010, the State Bar sent a letter to your SCR 79 address
23 asking you to respond to this grievance, but it was returned by the Post Office.

24 37. In your response to the State Bar following the meeting with Bar Counsel,
25 dated March 30, 2011, you stated that you were retained to assist with litigation on Palafox's

1 property, not mediation, and had met with your client to review her options, and execute her
2 complaint. Now that you were feeling better, you were going to attempt to obtain proof of
3 service in the matter and proceed with the litigation.

4 38. Your letter was sent to Palafox who responded that she no longer wanted you
5 to represent her in the matter.

6 39. On April 13, 2012, the State Bar sent an additional letter to you, via regular and
7 certified mail, asking for another update on this matter. You signed for the certified letter on
8 April 23, 2012, but failed to further respond to the State Bar.

9 40. Watson reviewed the Eighth Judicial District Court's website, but could not find
10 the case that you allegedly filed on behalf of Palafox.

11 ***SG11-0261/Ronald and Rita Roseboom***

12 41. In or about May 2010, Ronald and Rita Roseboom ("Rosebooms") retained you
13 to assist them with a loan modification. The Rosebooms wanted to modify their adjustable
14 rate mortgage to a fixed rate mortgage.

15 42. The Rosebooms paid you a retainer fee of \$1,388 and a filing fee of \$330 for a
16 total of \$1,718.

17 43. On February 16, 2011, the Rosebooms grieved to the State Bar that although
18 you had advised them it would be three (3) to six (6) months before they heard anything, they
19 had not heard further from you despite several attempts to contact you, and you were no
20 longer at the address at which they originally retained you.

21 44. On or about March 9, 2011, you met with Bar Counsel David Clark and were
22 provided a copy of the Roseboom's grievance. You reported that in or about September
23 2010, you had been diagnosed with impetigo. However, the diagnosis of impetigo was
24 incorrect; physicians subsequently diagnosed you as suffering from erythrodermic psoriasis
25 and psoriatic arthritis. The erythrodermic psoriasis had affected most of your body surface;

1 the psoriatic arthritis had affected your joints. Both the erythrodermic psoriasis and psoriatic
2 arthritis caused you to suffer severe pain in your skin and joints.

3 45. In your response to the State Bar following the meeting with Bar Counsel,
4 dated March 30, 2011, you stated that you were retained to assist with litigation on the
5 Roseboom's property, had met with your clients to review their options, and had reviewed
6 and executed their complaint. Now that you were feeling better, you were going to attempt to
7 obtain proof of service in the matter and proceed with litigation.

8 46. Your letter was sent to the Rosebooms. They were frustrated with you, but
9 could not afford to hire a new attorney.

10 47. On July 25, 2011, Freeman contacted you for an update on this matter and was
11 advised that you were waiting for an affidavit of service before you could proceed.

12 48. On April 12, 2012, Watson spoke with Ronald Roseboom, who indicated that
13 he had heard nothing from you since receiving a copy of your response to the State Bar in
14 March 2011 despite multiple attempts to contact you, and they had eventually retained new
15 counsel who was able to save their house.

16 49. On April 13, 2012, the State Bar sent an additional letter to you, via regular and
17 certified mail, asking for another update on this matter. You signed for the certified letter on
18 April 23, 2012, but failed to further respond to the State Bar.

19 50. Watson reviewed the Eighth Judicial District Court's website, but could not find
20 the case that you allegedly filed on behalf of the Rosebooms.

21 ***SG11-0381/Tom Black***

22 51. Tom Black ("Black") retained you in November 2009 to open a probate case
23 and handle other issues dealing with the death of his father, Ernest P. Black.

24 52. You accepted payment of \$7,750 from Black and \$1,750 from Black's sister as
25 a retainer in this matter.

1 53. On March 17, 2011, Black grieved to the State Bar that you were not
2 responding to his requests for information about his case, or to his requests for you to
3 provide him with receipts for his retainer payments and an accounting of the retainer.

4 54. On March 24, 2011, the State Bar sent you a letter to his SCR 79 address
5 asking that you contact your client and notify the State Bar when the problem was resolved.

6 55. On April 19, 2011, Black further grieved to the State Bar that you had still not
7 responded to his concerns.

8 56. On May 9, 2011, the State Bar opened the instant file and sent a letter to your
9 SCR 79 address asking you to respond to Black's grievance.

10 57. In your response to the State Bar, dated September 19, 2011, you confirmed
11 that you were retained by Black, and had conducted legal research, filed and served various
12 pleadings and made court appearances in the matter.

13 58. You stated that during a teleconference with Black, you learned that although
14 Ernest P. Black had properly funded several pieces of real estate into one of his living trusts,
15 the living trust into which the real estate in question was funded was rendered invalid by
16 judicial intervention. The subject real estate had to be added to the Inventory, Appraisalment
17 and Record of Value for the Estate, but you had been unable to complete this task due to
18 your illness.

19 59. You stated that as of August 31, 2011, Black remained your client, and you
20 were trying to meet with opposing counsel regarding the assets that had been discovered but
21 not properly funded into the Trust, as well as deal with the probate court, and you would
22 update the State Bar regarding your progress as soon as possible.

23 60. On April 13, 2012, the State Bar sent an additional letter to you, via regular and
24 certified mail, asking for an update on this matter. You signed for the certified letter on April
25 23, 2012, but failed to further respond to the State Bar.

1 61. On April 13, 2012, Watson spoke with Black who stated that he had resolved
2 the issues with the Trust with the assistance of another attorney. Black, however, did not
3 know the status of the probate, nor had he heard further from you.

4 62. On June 5, 2012, Watson reviewed the records for Ernest P. Black's probate
5 matter on the Eighth Judicial Court's website. The matter remained open, and there had
6 been no action since the Notice of Lodging Will in May 2010.

7 ***SG11-0509/Wells Fargo Bank***

8 63. On or about April 25, 2011, the State Bar received notification from Wells Fargo
9 Bank that your trust account had become overdrawn on April 4, 2011, when a check for \$975
10 was submitted for payment. The bank returned the check and charged an overdraft fee of
11 \$35.

12 64. On April 27, 2011, the State Bar sent you a letter requesting that you explain
13 the reason for the overdraft with sufficient documentation to substantiate your explanation.

14 65. In your response to the State Bar, received on June 1, 2011, you stated that
15 you had paid the overdraft fee, and you provided documentation that the balance of your
16 account on April 15, 2011, was \$980.66.

17 66. On April 13, 2012, the State Bar sent you an additional letter, via regular and
18 certified mail, asking you to provide further information regarding the overdraft, and to identify
19 to whom the \$975 check was issued to and for what purpose. You signed for the certified
20 letter on April 23, 2012, but failed to further respond to the State Bar.

21 ***SG11-0530/Rebecca Garcia***

22 67. On or about June 9, 2010, Rebecca Garcia ("Garcia") retained you for \$2,000
23 to assist her in obtaining a loan modification from Bank of America.

24 68. On April 26, 2011, Garcia grieved to the State Bar that you had stopped
25 communicating with her, and had done nothing toward her loan modification.

1 77. In the matter of SG10-0710/Ronald and Kimberly Carbone you violated RPC
2 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.15 (Safekeeping Property), and RPC 8.4
3 (Misconduct).

4 78. In the matter of SG10-0790/Roger Carroll you violated RPC 1.1 (Competence),
5 RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 8.1 (Bar Admission and Disciplinary
6 Matters), and RPC 8.4 (Misconduct).

7 79. In the matter of SG10-0911/Deseree Palafox you violated RPC 1.3 (Diligence),
8 RPC 1.4 (Communication), RPC 3.2 (Expediting Litigation), RPC 8.1 (Bar Admission and
9 Disciplinary Matters) and RPC 8.4 (Misconduct).

10 80. In the matter of SG11-0261/Ronald and Rita Roseboom you violated RPC 1.3
11 (Diligence), RPC 1.4 (Communication), RPC 3.2 (Expediting Litigation), RPC 8.1 (Bar
12 Admission and Disciplinary Matters), and RPC 8.4 (Misconduct).

13 81. In the matter of SG11-0381/Tom Black you violated RPC 1.1 (Competence),
14 RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.5 (Fees), RPC 1.15 (Safekeeping
15 Property), RPC 3.2 (Expediting Litigation), RPC 8.1 (Bar Admission and Disciplinary
16 Matters), and RPC 8.4 (Misconduct).

17 82. In the matter of SG11-0509/Wells Fargo Bank you violated RPC 1.15
18 (Safekeeping Property), RPC 8.1 (Bar Admission and Disciplinary Matters), and RPC 8.4
19 (Misconduct).

20 83. In the matter of SG11-0530/Rebecca Garcia you violated RPC 1.3 (Diligence),
21 RPC 1.4 (Communication) and RPC 8.1 (Bar Admission and Disciplinary Matters).

22 84. In addition to the Public Reprimand, the following conditions shall be imposed:

23 a. Respondent shall pay restitution within one (1) year as follows:

24 Marilyn Dennis \$1,200

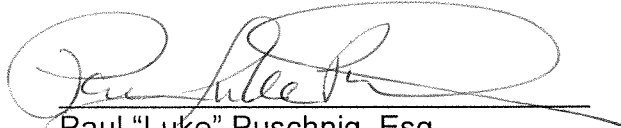
25 The Rosebooms \$1,718

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Deseree Palafox \$1,350
Client Security Fund \$2,500

b. Respondent shall pay the actual costs of the disciplinary proceeding,
excluding Bar Counsel and staff salaries, within thirty (30) days of receipt of a billing from the
State Bar.

Dated this 26th day of June, 2014.


Paul "Luke" Puschnig, Esq.
Formal Hearing Panel Chair
Southern Nevada Disciplinary Board