

STATE BAR OF NEVADA



November 19, 2021

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Garrett T. Ogata, Esq.
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Sent via email: Info@CBScrogginsLaw.com

RE: **LETTER OF REPRIMAND**
Grievance of Connor Higgins of August 24, 2021

Mr. Ogata:

A Southern Nevada Disciplinary Board Screening Panel convened on November 16, 2021 to consider the above-referenced grievance against you. The Panel concluded that you violated the Nevada Rules of Professional Conduct and that you should be reprimanded for your handling of that matter. This letter constitutes delivery of the Panel's reprimand.

On March 25, 2021, your office assistant took a phone inquiry from potential client Connor Higgins involving the defense of a traffic ticket. At her request, Mr. Higgins texted your assistant a screen shot of his citation. Your office's reply text stated: "Received. I will have Candy give you a call on Monday morning. The Law Offices of Garrett T. Ogata." Your office call entry note stated: "[h]e wants to know what we can do to help him out, he has a return date of 4/15/21 and wants to know how much, I told him I will have Candy call him back on Monday morning, he said that is okay." Mr. Higgins received no return phone call from your staff, or you, so he "moved on."

On April 12, Mr. Higgins contacted the court and obtained an initial appearance extension to June 17. After an initial date mix-up with the court, the court sent him a corrected notice of appearance for June 17. Meanwhile, you had appeared in court on May 13 and

negotiated Mr. Higgins's traffic ticket charges, fees and points and entered a guilty plea on his behalf. While he did not notify you of his recent address change, your office staff did not reach out to him using the phone number he maintained.

On or about August 4, Mr. Higgins learned that he was placed in warrant status due to his non-payment of fines for traffic charges that you negotiated without his authorization. On August 12, he texted you asking you to phone him, to which you only replied via text. On August 17, you took corrective action by filing an ultimately successful motion to withdraw his plea.

RPC 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer) states: "...[A] lawyer shall abide by a client's decision concerning the objectives of representation and as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued."

Here, you never spoke to Mr. Higgins, nor did your staff consult with Higgins. Your office received no authorization from him to carry out representation. You appeared in a criminal traffic proceeding and entered a plea on his behalf without his knowledge.

RPC 5.3(b) (Responsibilities Regarding Nonlawyer Assistants) states: "A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer." Likewise, RPC 5.3(c)(1) states: "A lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if: (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved;..."

Here, your office staff took a phone call inquiry from a prospective client. No return call was made to the prospective client by yourself or your staff, as your staff stated they would do. There was no client engagement. Your staff opened a file and scheduled an attorney session with the Court without approval from Mr. Higgins. You permitted this event or practice to occur under your supervisory authority. When you negotiated a plea agreement in his case, you should have known your staff had no follow-up communication with him. You ratified the conduct of your staff by entering into a plea agreement before the court.

RPC 5.5(a)(2) (Unauthorized Practice of Law) states: "A lawyer shall not:...(2) assist another person in the unauthorized practice of law." Here, your staff was operating under your policies and procedures when they opened a formal office file for a prospective client. They sought to arrange a prospective client interview without your apparent knowledge. They thereafter scheduled an attorney session with the court without prospective client authorization. You thereafter assisted them by attending this session and entered a plea.

As to RPC 1.2, Standard 4.43 of the ABA Standards for Imposing Lawyer Sanctions, states: "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." As to RPC 5.3 & 5.5, Standard 7.3 states: "Reprimand is generally appropriate

when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.” Here, the Screening Panel found potential injury was present even though you corrected the actual injury.

Please allow this reprimand to serve as a thoughtful reminder of your professional ethical obligations. We wish you well in your practice and trust that no similar problems will arise in the future.

Sincerely,

Dana P. Oswalt

Dana P. Oswalt (Nov 18, 2021 13:49 PST)

Dana P. Oswalt, Esq.
Screening Panel Chair
Southern Nevada Disciplinary Board