

Bar Counsel Report

In Re: ROBERT R. TELLES
Bar No.: 13597
Case No.: 85465
Filed: 10/19/2022

ORDER IMPOSING TEMPORARY SUSPENSION AND RESTRICTING HANDLING OF CLIENT FUNDS

This is a petition by the State Bar for an order temporarily suspending attorney Robert Richard Telles from the practice of law, pending the resolution of formal disciplinary proceedings against him. The petition and supporting documentation demonstrate that Telles has been charged with murder and appears to have transferred significant funds from his trust account in 2022, after he left private practice and assumed the job of public administrator.

SCR 102(4)(b) provides, in pertinent part: On the petition of bar counsel, supported by an affidavit alleging facts personally known to the affiant, which shows that an attorney appears to be posing a substantial threat of serious harm to the public, the supreme court may order, with notice as the court may prescribe, the attorney's immediate temporary suspension or may impose other conditions upon the attorney's practice.

In addition, SCR 102(4)(c) provides that we may place restrictions on an attorney's handling of funds. We conclude that the documentation before us demonstrates that Telles poses a substantial threat of serious harm to the public based on the murder charge and recent trust account transfers suggesting potential mishandling or misappropriation of client funds. For these reasons, his immediate temporary suspension is warranted under SCR 102(4)(b). We further conclude that Telles' handling of funds should be restricted.

Accordingly, attorney Robert Richard Telles is temporarily suspended from the practice of law, pending the resolution of formal disciplinary proceedings against him.¹ Under SCR 102(4)(d), Telles is precluded from accepting new cases immediately upon service of this order, but he may continue to represent existing clients for a period of 15 days from service of this order. In addition, pursuant to SCR 102(4)(b) and (c), we impose the following conditions on Telles' handling of funds entrusted to him:

1. All proceeds from Telles' practice of law and all fees and other funds received from or on behalf of his clients shall, from the date of

service of this order, be deposited into a trust account from which no withdrawals may be made by Telles except upon written approval of bar counsel; and

2. Telles is prohibited from withdrawing any funds from any and all accounts in any way relating to his practice of law, including but not limited to his general and trust accounts, except upon written approval of bar counsel.

The State Bar shall immediately serve Telles with a copy of this order. When served on either Telles or a depository in which he maintains an account, this order shall constitute an injunction against withdrawal of the proceeds except in accordance with the terms of this order. See SCR 102(4)(c). Telles shall comply with the provisions of SCR 115.²

It is so ORDERED.

The Honorable Abbi Silver having retired, this matter was decided by a six-justice court.

In Re: DERRICK S. PENNEY
Bar No.: 8606
Case No.: 85118
Filed: 10/10/2022

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113(1), a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Derrick S. Penney. Under this agreement, Penney admitted to violating RPC 1.3 (diligence); RPC 1.4(a) (communication); RPC 1.15(a), (c) (safekeeping property); and RPC 8.1 (disciplinary matters). He agreed to a six-month-and-one-day suspension, to run concurrent to his six-month suspension in In re Discipline of Penney, No. 84201, 2022 WL 1302176 (Nev. Apr. 29, 2022) (Order of Suspension), to submit to binding-fee arbitration as to one client, and to the payment of costs.

Penney admitted to the facts and violations as part of his guilty plea agreement. Thus, the record establishes that Penney violated the above-listed rules by failing to diligently litigate his client's postconviction actions in both federal and state court, by failing to communicate with the client, and by not placing the client's attorney fees deposit into his trust account. He also did not provide

the information requested by the State Bar during its investigation. The issue for this court is whether the agreed-upon discipline is sufficient to protect the public, the courts, and the legal profession. See *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (explaining the purpose of attorney discipline). In determining 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).

Penney admitted to knowingly engaging in conduct that violated duties owed to his client, who was harmed by the delay in the handling of his case. Penney’s actions also violated duties owed to the legal profession and legal system, with minor injury resulting from his failure to fully participate in the Bar’s investigation. The baseline sanction before considering aggravating or mitigating factors is suspension. See *Standards for Imposing Lawyer Sanctions, Compendium of Professional Responsibility Rules and Standards*, Standard 4.42 (Am. Bar Ass’n 2018) (providing that suspension is appropriate when “a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client”); Standard 4.12 (providing that suspension is appropriate when “a lawyer knows or should know he is dealing improperly with client property and causes injury or potential injury to a client”), and Standard 7.2 (“Suspension is generally appropriate when a lawyer knowingly 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.”). The record supports the panel’s finding of three aggravating factors (prior disciplinary offenses, multiple offenses, and substantial experience in the practice of law) and two mitigating factors (cooperative attitude toward the proceedings and substantial recent personal life changes). Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Derrick S. Penney from the practice of law for six months and one day, to run concurrently with his suspension in Docket No. 84201. Penney shall also submit to binding fee dispute arbitration regarding his client’s deposit. Finally, Penney shall pay the costs of the disciplinary proceedings, including \$2,500 under SCR 120, within 30 days from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.³

In Re: THOMAS S. SHADDIX
Bar No.: 7905
Case No.: 84846
Filed: 09/23/2022

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel’s recommendation that attorney Thomas S. Shaddix be suspended from the practice of law for six months and one day based on violations of RPC 1.4 (communication) and RPC 8.1 (bar disciplinary matters). Because no briefs have been filed, this matter stands submitted for decision based on the record. SCR 105(3)(b).

The State Bar has the burden of showing by clear and convincing evidence that Shaddix committed the violations charged. See *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 Shaddix failed to answer the complaint and a default was entered. SCR 105(2). The record therefore establishes that Shaddix violated the above-referenced rules by failing to inform a client of a fine imposed after Shaddix entered a guilty plea to a traffic violation on the client’s behalf and failing to respond to the client’s multiple attempts to contact Shaddix. Shaddix also failed to adequately respond to the Bar’s requests for information regarding the client’s grievance.

Turning to the appropriate discipline, we review the hearing panel’s recommendation de novo. SCR 105(3)(b). Although we “must ... exercise independent judgment,” the panel’s recommendation is persuasive. *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). In determining 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).

The above actions violated the duties Shaddix owed to his client, the legal system, and the profession. His mental state was knowing, and his actions caused minimal actual injury but had the potential to cause further injury. In particular, if the client had not discovered the fine through other means, her failure to pay could have resulted in a warrant being issued for her arrest. And the profession is harmed whenever an attorney refuses to participate in the disciplinary process. The baseline sanction for Shaddix’s misconduct, before considering aggravating and mitigating circumstances, is suspension. See *Standards for Imposing Lawyer Sanctions*,

CONTINUED ON PAGE 44

Bar Counsel Report

Compendium of Professional Responsibility Rules and Standards, Standards 4.42(a) & 7.2 (Am. Bar Ass'n 2017) (recommending suspension when "a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client" and when "a lawyer knowingly 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"). The panel found, and the record supports, three aggravating circumstances (prior disciplinary offenses, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders, and substantial experience in the practice of law) and one mitigating circumstance (absence of a dishonest or selfish motive). The prior disciplinary offenses involving similar rule violations is a particularly compelling aggravating circumstance in this matter. Considering all the factors, we conclude the recommended suspension is sufficient to serve the purpose of attorney discipline. See *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 219, 756 P.2d 464, 531-32 (1988) (observing the purpose of attorney discipline is to protect the public, the courts, and the legal profession).

Accordingly, we hereby suspend attorney Thomas S. Shaddix from the practice of law in Nevada for a period of six months and one day. This suspension shall run consecutive to the suspension imposed in *In re Discipline of Shaddix*, No. 84263, 2022 WL 3147800 (Nev. Aug. 4, 2022) (Order of Suspension). Shaddix shall also pay the costs of the disciplinary proceedings, including \$2,500 under SCR 120, within 30 days from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

In Re: ANDREW SEDLOCK
Bar No.: 9183
Case No.: 85361
Filed: 09/23/2022

ORDER IMPOSING TEMPORARY SUSPENSION AND RESTRICTING HANDLING OF CLIENT FUNDS

This is a petition by the State Bar for an order temporarily suspending attorney Andrew D. Sedlock from the practice of law, pending the resolution of formal disciplinary proceedings against him. The petition and supporting documentation demonstrate that Sedlock appears to have misappropriated client funds in excess of \$294,000. Aside from participating in a conference call early in the Bar's investigation, Sedlock has not responded to multiple inquiries from the State Bar regarding numerous grievances related to his handling of client and settlement funds entrusted to him.

SCR 102(4)(b) provides, in pertinent part:

On the petition of bar counsel, supported by an affidavit alleging facts personally known to the affiant, which shows that an attorney appears to be posing a substantial threat of serious harm to the public, the supreme court may order, with notice as the court may prescribe, the attorney's immediate temporary suspension or may impose other conditions upon the attorney's practice.

In addition, SCR 102(4)(c) provides that we may place restrictions on an attorney's handling of funds.

We conclude that the documentation before us demonstrates that Sedlock poses a substantial threat of serious harm to the public based on a recent pattern of misappropriation of client funds, and that his immediate temporary suspension is warranted under SCR 102(4)(b). We further conclude that Sedlock's handling of funds should be restricted.

Accordingly, attorney Andrew D. Sedlock is temporarily suspended from the practice of law, pending the resolution of formal disciplinary proceedings against him.⁴ Under SCR 102(4)(d), Sedlock is precluded from accepting new cases immediately upon service of this order, but may continue to represent existing clients for a period of 15 days from service of this order. In addition, pursuant to SCR 102(4)(b) and (c), we impose the following conditions on Sedlock's handling of funds entrusted to him:

1. All proceeds from Sedlock's practice of law and all fees and other funds received from or on behalf of his clients shall, from the date of service of this order, be deposited into a trust account from which no withdrawals may be made by Sedlock except upon written approval of Bar counsel; and
2. Sedlock is prohibited from withdrawing any funds from any and all accounts in any way relating to his law practice, including but not limited to his general and trust accounts, except upon written approval of Bar counsel.

The State Bar shall immediately serve Sedlock with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Sedlock's place of employment or residence, or by publication. When served on either

Sedlock or a depository in which he maintains an account, this order shall constitute an injunction against withdrawal of the proceeds except in accordance with the terms of this order. See SCR 102(4)(c). Sedlock shall comply with the provisions of SCR 115.⁵

It is so ORDERED.

In Re: TORY D. ALLEN
Bar No.: 12680
Case No.: SBN21-99093
Filed: 09/21/2022

PUBLIC REPRIMAND

To Tory D. Allen:

You were retained by a client and her husband (hereinafter “the Clients”) on or about October 16, 2018, to draft estate planning documents. More than a year later, the Clients were ready to proceed with the estate planning process. You started drafts of the estate planning documents on or about February 26, 2020, which was prior to the start of the suspension of your license to practice law.

On April 23, 2020, the Nevada Supreme Court suspended you from the practice of law for thirty months. Pursuant to SCR 115, you had until May 7, 2020, to complete any then pending representations and inform all clients of your suspension and inability to continue representing them.

In July 2020, you responded to the Client’s inquiries regarding finalizing their estate planning documents. On or about July 8, 2020, you provided draft documents to the Clients. The Clients emailed you questions in August 2020 and, in response, you provided the Clients with legal advice.

The Clients did not communicate with you again until March 2021. At that point, the Clients emailed you to finalize the estate planning documents. On April 1, 2021, your assistant replied that they needed to set up a time to sign the documents.

After some delays in getting the signing appointment scheduled, on September 17, 2021, the Clients terminated the representation and went to another attorney to have the estate planning documents drafted.

Violations of the Rules of Professional Conduct

Pursuant to RPC 3.4 (Fairness to Opposing Party and Counsel), as of May 7, 2020, you had a duty to obey the Nevada Supreme Court’s order to refrain from engaging in the practice of law until reinstated by their subsequent order. RPC 5.5 (Unauthorized Practice of

Law), also prohibited you from engaging in the practice of law while suspended by the Nevada Supreme Court.

You knowingly violated RPC 3.4 and RPC 5.5 which could have injured the Clients and did injure the integrity of the profession.

Application of ABA Standards for Imposing Lawyer Sanctions and Mitigating Factors

Pursuant to Standard 7.2 of the ABA Standards for Imposing Lawyer Sanctions, the appropriate baseline sanction for Respondent’s misconduct is suspension. However, in mitigation, you were cooperative with the disciplinary authority by accepting responsibility for your conduct and you did not have a dishonest or selfish motive when you engaged in the misconduct. Therefore, it is appropriate to deviate downward from imposition of further suspension to issuance of a Public Reprimand.

In light of the foregoing, you violated Rule of Professional Conduct (“RPC”) 3.4 ((Fairness to Opposing Party and Counsel) and RPC 5.5 (Unauthorized Practice of Law) and are hereby PUBLICLY REPRIMANDED. Further, you are required to pay \$1,500, plus the hard costs of the disciplinary proceeding no later than 30 days after the filing of the Order in this matter.

ENDNOTES:

1. Telles may file a petition asking this court to dissolve or amend the order of temporary suspension as discussed in SCR 102(4)(e).
2. As provided in SCR 121(5), this matter is now public. This is our final disposition of this matter. Any new proceedings shall be docketed under a new docket number.
3. The Honorable Abbi Silver having retired, this matter was decided by a six-justice court.
4. Sedlock may file a petition asking this court to dissolve or amend the order of temporary suspension as discussed in SCR 102(4)(e).
5. As provided in SCR 121(5), this matter is now public. This is our final disposition of this matter. Any new proceedings shall be docketed under a new docket number.

TIP

FROM THE BAR COUNSEL

Trust Accounts Are Not “Escrow” Accounts, But Fake Clients Are Again Targeting Nevada Lawyers

Scams targeting attorney trust accounts, which have been around for years, seemed to disappear during the pandemic. But they are back and fall into three forms. The scams have developed nicknames: The Debt Collector, The Big Deal, and Escrow Attorneys. The one looking for “escrow attorneys” is the recent resurgent strain.

In the Debt Collector, the scammer “hires” an attorney to oversee collections for a foreign company with customers in the U.S. After sending a demand letter to the customer, the debtor quickly provides payment (usually \$200,000 to \$300,000) with a fraudulent check.

The attorney deposits the funds in a trust account and promptly informs the “client” as required by RPC 1.15 (Safekeeping Property). Then the client demands that the attorney wire the funds immediately to another bank. The attorney withdraws the funds immediately in cash, transfers the funds to the “client,” and the client disappears. The attorney’s bank, of course, discovers the check was fake and then debits the trust account. The stolen funds belonged to the attorney’s clients or third parties.

The Big Deal is much the same. The “client” asks an attorney to facilitate a large commercial transaction, often involving expensive farm equipment. The client is the “seller.” The “buyer” again provides a fake check for the attorney to deposit into their trust account. And again, the client wants the funds wired immediately and disappears.

But lately, scammers have contacted Nevada attorneys (and even the State Bar of Nevada) asking for

“IOLTA attorneys” who can use their trust accounts as escrow accounts. The scammer asks an attorney to provide an “escrow service” as part of a huge business transaction. The attorney would hold funds until the “client” completes the deal, and eventually would receive a handsome payment for doing almost nothing.

This scam has two objectives: stealing trust account funds using fake checks or laundering money. If the goal is to steal funds, as in the scenarios above, the big check arrives, and the client demands funds immediately.

Sometimes the scam’s goal is an attempt to launder money or hide it for a while. The “big deal” is fake, and this time a legitimate check – albeit containing tainted funds – is deposited into the trust account. When the heat is off, the client asks for the funds and vanishes.

This scenario leaves an electronic trail behind for snoop law enforcement, which shows that a bunch of money went through an attorney’s trust account for no legitimate reasons. It quickly becomes obvious that there was no underlying litigation or legal claim.

In the worst-case scenario, as the Office of Bar Counsel has warned before, polite FBI agents and their technicians appear at the attorney’s office to further investigate. Expectedly, the agents are less polite if the client provided the funds in a duffle bag full of cash.

Remember this tip from the OBC: your trust account is not an escrow account. It holds funds associated with legal representations in which you provided actual legal work. Do not use it to facilitate commercial transactions, even for people you know. And especially not if the solicitation comes from persons unknown to you. If someone asks you for access to your trust account, it is not going to be for a legitimate reason.