In Re: REINSTATEMENT OF R. CHRISTOPHER READE
Bar No.: 6791
Case No.: 76935
Filed: 11/28/2018

ORDER OF REINSTATMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation to grant suspended attorney R. Christopher Reade's petition for reinstatement.

This court previously suspended Reade for four years for violating RPC 8.4(b) (misconduct: committing a criminal act that reflects adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer) due to his felony conviction in federal court on one count of accessory after the fact to laundering of monetary instruments. *In re Discipline of Reade,* 133 Nev., Adv. Op. 87, 405 P.3d 105 (2017). This court also required Reade to pay the costs associated with that disciplinary proceeding. *Id.* Reade's suspension term has ended and a panel has recommended that he be reinstated to the practice of law in Nevada subject to certain conditions.

Based on our de novo review,[1] we agree with the panel's conclusion that Reade has satisfied his burden in seeking reinstatement by clear and convincing evidence. *See* SCR 116(2) (requiring an attorney to demonstrate the criteria for reinstatement by clear and convincing evidence); *Application of Wright,* 75 Nev. 111, 112-13, 335 P.2d 609, 610 (1959) (reviewing a petition for reinstatement de novo). We therefore reinstate Reade to the practice of law in Nevada as of the date of this order, subject to the following conditions:

Reade is required to provide the State Bar with any information or reports required by any other State Bar or Bar Counsel.

Reade must obtain a mentor, the identity of whom must be agreed upon by the State Bar. Reade shall meet with the mentor on a regular basis to discuss his practice. The mentor shall file a monthly report with the State Bar for a period of one year following Reade's reinstatement.

If no disciplinary action is commenced against Reade within the one-year probationary period, all conditions of reinstatement will end at that time.

If he has not already done so, Reade shall pay the actual costs of the reinstatement proceeding within 30 days of this order. *See* SCR 120.

It is so ORDERED.

In Re: CHAD N. DENNIE
Bar No.: 8789
Case No.: 77460
Filed: 12/06/2018

ORDER IMPOSING TEMPORARY SUSPENSION AND RESTRICTING HANDLING OF CLIENT FUNDS

This is a petition by the state bar for an order temporarily suspending attorney Chad Dennie from the practice of law, pending the resolution of formal disciplinary proceedings against him. The petition and supporting documentation demonstrate that Dennie appears to have misappropriated client funds in excess of $600,000. Dennie has not responded to two inquiries from the State Bar regarding a grievance related to his handling of settlement funds entrusted to him on a client's behalf.

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 Dennie 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 Dennie's handling of funds should be restricted.

Accordingly, attorney Chad Dennie is temporarily suspended from the practice of law, pending the resolution of formal disciplinary proceedings against him.[2] Under SCR 102(4)(d), Dennie 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 Dennie's handling of funds entrusted to him:

All proceeds from Dennie'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 Dennie except upon written approval of bar counsel; and

Dennie 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 Dennie with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Dennie's place of employment or residence, or by publication. When served on either Dennie 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). Dennie shall comply with the provisions of SCR 115.[3]

It is so ORDERED.

In Re: JEREMY T. BERGSTROM
Bar No.: 6904
Case No.: 77170
Filed: 12/21/2018

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court suspend attorney Jeremy T. Bergstrom for six months, with all but the first two months stayed, for violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 3.2 (expediting litigation), and RPC 8.1(b) (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 demonstrating by clear and convincing evidence that Bergstrom committed the violations. *In re Discipline of Drakulich,* 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). We employ a deferential standard of review with respect to the hearing panel's findings of fact, SCR 105(3)(b), and thus, will not set them aside unless they are clearly erroneous or not supported by substantial evidence, *see generally Sowers v. Forest Hills Subdivision,* 129 Nev. 99, 105, 294 P.3d 427, 432 (2013); *Ogawa u. Ogawa,* 125 Nev. 660, 668, 221 P.3d 699, 704 (2009). In contrast, we review de novo a disciplinary panel's conclusions of law and recommended discipline. SCR 105(3)(b).

Bergstrom was retained to domesticate a foreign judgment in Nevada and pursue enforcement of the judgment against the judgment debtor. He domesticated the judgment, but the record demonstrates that he then failed to competently, diligently, or expeditiously pursue enforcement, and he failed to keep his client reasonably informed about the status of the matter. Additionally, Bergstrom failed to respond to three lawful demands for information from the State Bar after the client filed a grievance and did not file an answer to the formal bar complaint until after the State Bar notified him of its intent to take a default. Because substantial evidence supports the panel's findings concerning Bergstrom's violations, we agree with the panel's conclusions that the State Bar established by clear and convincing evidence that Bergstrom violated the above-listed rules.

In determining whether the panel's recommended discipline is appropriate, 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). We must ensure that the 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) (noting the purpose of attorney discipline).

Bergstrom violated duties owed to his client (competence, diligence, communication, and expediting litigation) and the legal profession (failing to respond to lawful requests for information by a disciplinary authority). Bergstrom's misconduct caused potential injury to his client because he failed to pursue judgment enforcement against two debtor properties that have since been sold which may limit the client's ability to recover on the judgment. Bergstrom harmed the integrity of the profession, which depends on a self-regulating disciplinary system and cooperation in disciplinary investigations. The record supports the panel's finding that Bergstrom's mental state was knowing regarding his violation of RPC 8.1(b) (disciplinary matters). Additionally, Bergstrom's mental state regarding the remaining violations was at least negligent.

Based on the most serious instance of misconduct at issue, Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility. Rules and Standards* 452 (Am. Bar Ass'n 2017) ("The ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations."), the baseline sanction before considering aggravating and mitigating circumstances is suspension, *see id.* 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 findings of two aggravating circumstances (pattern of misconduct and substantial experience in the practice of law) and two mitigating circumstances (absence of prior disciplinary record and absence of dishonest or selfish motive). Thus, considering all of the factors, we conclude that a suspension is warranted but that a stayed suspension is sufficient considering that this is Bergstrom's first disciplinary matter in a 20-year career and the conduct concerned one client.

Accordingly, we hereby suspend attorney Jeremy T. Bergstrom from the practice of law for six months. The suspension is stayed for a period of one year from the date of this order subject to the following conditions: (1) he complete two CLE credits in law office management, in addition to his annual CLE requirement, and provide proof of compliance to the State Bar within 6 months from the date of this order; and (2) he obtain a mentor with more than 20 years of experience in the practice of law and participate in a mentorship regarding law office management for the duration of the stayed suspension. Additionally, Bergstrom shall pay the actual costs of the disciplinary proceedings, including $2,500 under SCR 120 within 30 days from the date of this order, if he has not done so already. The parties shall comply with SCR 121.

It is so ORDERED.

In Re: STEVEN L. YARMY
Bar No.: 8733
Case No.: 77095
Filed: 12/24/2018

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Steven L. Yarmy. Under the agreement, Yarmy admitted to violating RPC 1.5 (fees) and RPC 1.15 (safekeeping property) and agreed to a stayed 18-month suspension and an 18-month probationary period with the following conditions: that he has no discipline during the probationary period, hires a forensic accountant to review his operating and trust accounts, pays restitution to any party in the amount determined by the accountant, completes an additional 10 hours of CLE in accounting practices, and pays the costs of the disciplinary proceedings.

Yarmy has admitted to the facts and violations as part of his plea agreement. The record therefore establishes that Yarmy violated RPC 1.5 by collecting attorney fees for a bankruptcy matter without first getting authority from the bankruptcy court and without demonstrating that he had earned those fees, and he violated RPC 1.15 by failing to properly maintain his trust account, commingling client funds, and failing to make payments to clients' creditors.

In determining the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the

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potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating and mitigating factors." *In re Discipline of Lerner,* 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008). The panel found that Yarmy negligently violated duties owed to his clients (fees and safekeeping property). Although the record does not specifically state any actual injury, it appears that his clients' creditors have not been paid despite Yarmy receiving funds from the clients to distribute to the creditors. Based on the most serious instance of misconduct at issue, *see* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards,* 452 (Am. Bar Ass'n 2017) ("The ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations."), the baseline sanction before considering aggravating and mitigating circumstances is suspension, *id.,* Standard 4.12 ("Suspension is generally appropriate when a lawyer...should know that he is dealing improperly with client property and causes injury or potential injury to a client."). The record supports the panel's findings of three aggravating circumstances (a pattern of misconduct, multiple offenses, and substantial experience in the practice of law) and two mitigating circumstances (full and free disclosure to disciplinary authority or cooperative attitude toward proceeding, and remorse). Considering all four factors, we conclude that a stayed 18-month suspension is sufficient to serve the purpose of attorney discipline. *See State Bar of Nev. v. Claiborne,* 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (providing that the purpose of attorney discipline is to protect the public, the courts, and the legal profession).

Accordingly, we suspend attorney Steven Yarmy from the practice of law in Nevada for 18 months commencing from the date of this order. The suspension shall be stayed subject to the conditions set forth in the guilty plea agreement: that he (1) has no discipline for 18 months from the date of this order; (2) hires a forensic accountant within 30 days from the date of this order to review his operating and trust accounts from January 2016 forward; (3) pays restitution to any party in the amount determined by the accountant within 90 days from the date of the accountant's final report or, upon a showing of good cause, no later than 18 months from the date of this order; (4) completes an additional 10 hours of CLE in accounting practices within 18 months from the date of this order; and (5) pays the costs of the disciplinary proceedings within 30 days from the date of this order in the amount of $2,500 as provided by SCR 120(3) plus the amount of additional costs as allowed by SCR 120(1) and billed by the State Bar. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

In Re: LUIS J. ROJAS
Bar No.: 5107
Case No.: 75289
Filed: 12/21/2018

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Luis J. Rojas be allowed to seek reinstatement to the practice of law, be required to pay $790,000 in restitution within five years, and be suspended for two years upon full payment of restitution for violations of RPC 1.15 (safekeeping property) and RPC 5.3 (responsibilities regarding nonlawyer assistants).

The State Bar has the burden of demonstrating by clear and convincing evidence that Rojas committed the violations. *In re Discipline of Drakulich,* 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). We employ a deferential standard of review with respect to the hearing panel's findings of fact, SCR 105(3)(b), and thus, will not set them aside unless they are clearly erroneous or not supported by substantial evidence, *see generally Sowers v. Forest Hills Subdivision,* 129 Nev. 99, 105, 294 P.3d 427, 432 (2013); *Ogawa v. Ogawa,* 125 Nev. 660, 668, 221 P.3d 699, 704 (2009). In contrast, we review de novo a disciplinary panel's conclusions of law and recommended discipline. SCR 105(3)(b).

Rojas' paralegal embezzled more than $800,000 from Rojas' trust account by taking checks made out to his clients, reissuing the checks in the same amount, and utilizing Rojas' electronic signature to make those checks payable to one of the paralegal's nine co-conspirators. In reviewing the reconciliations between his trust account and client files, Rojas did not review the copies of the checks, and thus, believed the reconciliations were proper because the amounts were the same. Additionally, after Rojas learned of his paralegal's criminal history he did not implement any safeguards to ensure that she did not have unfettered access to his trust account. Rojas does not challenge the panel's findings that he violated RPC 1.15 (safekeeping property) and RPC 5.3 (responsibilities regarding nonlawyer assistants) and substantial evidence supports those findings. Thus, we agree with the panel's conclusions that the State Bar established by clear and convincing evidence that Rojas violated those rules.

In determining whether the panel's recommended discipline is appropriate, 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). We must ensure that the 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) (noting the purpose of attorney discipline).

Rojas violated duties owed to his clients (safekeeping property) and to the profession (responsibilities regarding nonlawyer assistants). Rojas' clients were seriously injured because their lienholders were never paid. While it seems that his paralegal ran a sophisticated scam on Rojas, Rojas should have known that it was improper to give an employee unfettered access to his trust account checks and his signature. Moreover, upon discovering his paralegal's criminal record, Rojas should have known that he needed to put safeguards in place to protect his clients' funds from this employee. Thus, suspension is the appropriate discipline before considering the aggravating and mitigating circumstances. *See* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards,* Standard 4.12 (Am. Bar Ass'n 2017) ("Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.").

Rojas does not challenge, and substantial evidence supports, the five aggravating circumstances (pattern of misconduct, multiple offenses, refusal to acknowledge the wrongful nature of his conduct, vulnerability of the victims, and substantial experience in the practice of law) and the three mitigating circumstances (absence of dishonest or selfish motive, personal or emotional problems, and character or reputation) found by the panel. Additionally, the panel did not err in failing to find the mitigating circumstance of timely good faith effort to make restitution or rectify the consequences of the misconduct because Rojas has paid restitution to only a limited number of clients and, even though he discovered the fraud almost three years ago, he has made only minimal efforts to determine who is owed what. The panel also did not err in failing to find the mitigating circumstance of full and free disclosure to the disciplinary authority as Rojas did not report the problems with his trust account to the State Bar and he was uncooperative with the State Bar until the disciplinary complaint was filed.

In light of the aggravating and mitigating circumstances, a deviation from the baseline discipline is not warranted. Thus, considering all of the factors, we conclude that a suspension is warranted but we further conclude that the discipline recommended by the panel does not serve the purpose of attorney discipline, as Rojas would not be suspended until after he pays restitution, which discourages Rojas from paying the restitution and seems more designed to punish Rojas than to protect the public.

Accordingly, we hereby suspend attorney Luis J. Rojas from the practice of law in Nevada for two years from the date of this order. Rojas shall obtain a professional audit at his expense to determine the parties to whom restitution is owed, and the results of that audit must be submitted to the State Bar within 30 days of the audit's completion. It appears from the records available that Rojas owes up to $790,000 in restitution. This amount may change depending on the results of the audit. During his suspension, Rojas shall make monthly payments to reduce the amount of restitution owed to the parties identified in the audit at a rate of 25% of his net taxable income. His reinstatement is conditioned on his good faith adherence to the foregoing restitution payment schedule. Additionally, Rojas must comply with the conditions in *In re Discipline of Rojas,* Docket No. 69787 (Order of Suspension, June 14, 2016), before seeking reinstatement. Further, Rojas shall pay the actual costs of the disciplinary proceedings, including $2,500 under SCR 120 within 30 days from the date of this order. The State Bar shall comply with SCR 121.1.

It is so ORDERED.[4]

In Re: MADISON GREGOR
Bar No.: 12756
Case No.: 77525
Filed: 12/21/2018

ORDER TRANSFERRING ATTORNEY TO DISABILITY INACTIVE STATUS

The State Bar and attorney Madison Gregor have petitioned this court for an order transferring Gregor to disability inactive status based on proof that she is incapable of continuing the practice of law or participating in any ongoing disciplinary investigation due to medical conditions that impair her mental capacity. *See* SCR 117(2). Having reviewed the petition, we conclude that the relief requested in the petition is warranted. Accordingly, Gregor is transferred to disability inactive status. Gregor may not resume active status until she files a petition for reinstatement as provided in SCR 117(4) and is reinstated by order of this court. In light of this order, any pending disciplinary investigation of Gregor is suspended. SCR 117(2).

Gregor shall comply with SCR 115. *See* SCR 117(7). If she is not able to comply with SCR 115 due to her disability, the State Bar shall proceed under SCR 118. *Id.* The State Bar shall comply with SCR 121.1.1

It is so ORDERED.

In Re: REINSTATEMENT OF RANDOLPH H. GOLDBERG
Bar No.: 5970
Case No.: 76355
Filed: 12/28/2018

ORDER OF REINSTATEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation to grant suspended attorney Randolph H. Goldberg's petition for reinstatement.[5] Goldberg was suspended from the practice of law for four years and nine months starting on April 25, 2013. He was also required to complete 12 CLE credits in office management and 3 additional CLE credits in ethics, pay a $5,000 fine, pay the costs of the disciplinary proceeding, and, upon reinstatement, have a mentor with a [sic] least 10 years of general practice experience for two years. Goldberg's suspension term has expired and the panel has recommended he be reinstated to the practice of law in Nevada subject to certain conditions.

Based on our de novo review, we agree with the panel's conclusion that Goldberg has satisfied his burden in seeking reinstatement by clear and convincing evidence. *See* SCR 116(2); *Application of Wright,* 75 Nev. 111, 112-13, 335 P.3d 609, 610 (1959) (reviewing a petition for reinstatement de novo). We therefore approve the panel's recommendation that the petition be granted and Goldberg be reinstated subject to certain conditions.

Accordingly, Randolph H. Goldberg is hereby reinstated to the practice of law in Nevada on the following conditions: Goldberg shall (1) complete 20 hours of pro bono service monthly for five years; (2) provide quarterly reports to the State Bar; (3) continue counseling by either seeing a stress management counselor or a psychotherapist once per month for two years, with the treating professional providing quarterly reports to the State Bar; (4) have a mentor with at least 10 years' experience in general practice, who is not also his business partner, for two years; and (5) pay the costs of the reinstatement proceeding, including $2,500 under SCR 120, within 30 days of this order.

It is so ORDERED.

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KENNETH A. STOVER, ESQ.
Bar No.: 5792
Grievance File No.: OBC18-0222
Filed: 12/17/2018

PUBLIC REPRIMAND

To Kenneth A. Stover:

You represented Client in a criminal matter pending in the Second Judicial District Court in which Client was charged with trafficking in a controlled substance. Client had been convicted of, at least, two felonies prior to the commencement of the underlying criminal matter. One of Client's prior convictions had been for the violation of NRS 202.360, Being an Ex-Felon in Possession of a Firearm, and trafficking in a controlled substance.

In the underlying criminal matter, you were attempting to negotiate a guilty plea resolution with the District Attorney's office on Client's behalf. You advised Client that under Nevada law he was ineligible for probation or a reduced sentence unless he performed substantial assistance pursuant to NRS 453.3405(2). You knew that Client was an ex-felon, but still suggested to Client that getting weapons off the streets and providing them to law enforcement could be considered substantial assistance.

Client initially declined to try to provide the "substantial assistance." Nonetheless, you mentioned to the Deputy District Attorney ("DDA") handling Client's matter that you believed Client could provide "substantial assistance" by providing weapons, removed from the streets, to law enforcement. The DDA told you to deal with law enforcement and if weapons were turned over to it, then she would consider it within the potential guilty plea resolution. You did not make prior arrangements with law enforcement regarding acceptance of any weapons from Client. Further, you were unaware that, under Federal policy and procedure, substantial assistance had to be performed under the guidance and supervision of law enforcement.

As the matter proceeded, you, again, suggested that Client, an ex-felon, could collect and turn in weapons to create "substantial assistance" that might mitigate the sentence in the pending criminal matter. In early July, 2018, Client decided to perform substantial assistance and you understood that Client set about acquiring weapons on the streets for the purpose of turning them over to law enforcement through you, as "substantial assistance." Although you had no actual knowledge of how Client acquired the weapons, you contemplated that Client was probably purchasing and/or trading drugs for the weapons.

On July 10, 2018, you provided your car to Client so that Client could place the weapons, obtained from the streets, in the car's trunk to be turned over to law enforcement to create "substantial assistance" in Client's pending criminal case. You had not made any pre-arrangements to turn-in the weapons and when you initially contacted law enforcement, it declined to receive the weapons. You felt you had no choice but to store the cache of weapons at your home until you were finally able to facilitate the Reno Police Department's receipt of the weapons. On July 11, 2017, the Reno Police Department ("RPD") agreed to accept the weapons from you and you provided twelve guns and three boxes of ammunition to a detective.

On or about August 1, 2017, the same or similar process occurred again with eight more weapons— you provided your car to Client, who put acquired weapons in it. Again, you had not made pre-arrangements with the Reno Police Department or any law enforcement agency, to turn in additional weapons.

In September 2017, Client failed to appear at the continued arraignment and a warrant was issued for his arrest. Client was arrested on the warrant on or about October 23, 2017. He had seven weapons in his possession at the time of his arrest. Client is now facing Federal criminal charges in United States District Court because of the weapons he possessed when he was arrested.

You had no existing pre-arrangement with RPD to turn in additional weapons. On or about October 29, 2017, you provided your car to an unknown associate of Client, who took your car from your home, filled the trunk of the car with 36 more weapons, and returned the car to your home. You then contacted RPD. RPD took possession of the weapons.

On December 20, 2017, Client entered a guilty plea, by executing a Guilty Plea Memorandum. At the February 7, 2018 Sentencing Hearing, you stated (i) the facts of Client's acquisition of over 50 weapons and your own part in facilitating the relinquishment of the weapons to RPD and (ii) that only after the three separate times weapons were turned over to law enforcement did you learn from a U.S. Attorney that under Federal procedure and policy substantial assistance had to be performed under supervision of law enforcement.

At the Sentencing Hearing, you argued that the "substantial assistance" had been performed and that it warranted a sentence of probation instead of a prison sentence. The DDA at the hearing acknowledged that substantial assistance had been performed and argued that a 12 to 30 months sentence adequately accounted for the "substantial assistance." The Court acknowledged that Client could have been sentenced for 10 years or more, but it accepted the agreement of the DDA regarding the "substantial assistance." The Court followed the DDA's argument and sentenced Client to 30 months in the Nevada Department of Corrections with parole eligibility after 12 months and a $5,000 fine.

Pursuant to RPC 1.1 (Competence), you are required to have the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation in which you engage. You knowingly violated RPC 1.1 (Competence) because you failed to consider that your counsel and assistance to your client created (i) additional, significant, risk for your client, including, but not limited to, in Federal Court because you were unaware that under Federal Rules substantial assistance must be performed under the supervision and guidance of law enforcement and (ii) the potential that your ability to advocate on behalf of your client would be materially limited by third-party interests or your own personal interest. Your client was injured and/or could have been injured because of your failure to thoroughly research and have the legal knowledge regarding Federal Law and policy for substantial assistance and your failure to adequately analyze the risks of providing such "substantial assistance" and so advise your client. The integrity of the profession was injured because of your failure to employ the legal knowledge, skill and thoroughness of analysis necessary for the representation.

In evaluating the appropriate sanction for your misconduct, the Panel has considered the aggravating factor of your

substantial experience in the practice of law and the mitigating factors of your absence of a disciplinary record, your remorse, and that you accepted responsibility for your misconduct by offering a Conditional Guilty Plea.

In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 1.1 (Competence) and are hereby **PUBLICLY REPRIMANDED.**

MANDY J. MCKELLAR, ESQ.
Bar No.: 10437
Grievance File No.: OBC18-0977
Dated: 10/23/2018

LETTER OF REPRIMAND

To Mandy J. McKellar:

On October 23, 2018, a Screening Panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. The Panel concluded that you violated the Rules of Professional Conduct and should be reprimanded. This letter shall constitute delivery of that reprimand.

On June 24, 2015, Douglas Crawford ("Crawford") signed an Affiliation Agreement with you wherein Crawford would be "of counsel" with your firm, McKellar Family Law ("MFL"). During the period of affiliation with MFL, Crawford was retained by Orietta Mauk ("Mauk"). The retainer agreement listed both you and Crawford as the retained attorneys.

On May 7, 2017, Crawford filed an Answer and Counterclaim as "of counsel" with MFL on Mauk's behalf in the case of *Steckel v. Mauk, Case No. D-17-550174-D*. Your affiliation agreement with Crawford terminated on June 18, 2017. Thereafter, Crawford left your firm and withdrew from representation of Mauk.

On August 1, 2017, Alyssa Aklestad ("Aklestad") became employed as an associate attorney at MFL. On January 19, 2018, Joel Steckel ("Steckel"), the adverse party in *Steckel v. Mauk,* retained Aklestad to represent him in that matter. Aklestad filed a notice of appearance on behalf of Steckel on January 19, 2018. On January 23, 2018, new counsel for Mauk advised Aklestad she was not waiving the conflict of interests.

Aklestad refused to withdraw, resulting in Mauk's counsel filing a motion to remove MFL and Aklestad as counsel for Steckel. The motion to remove Aklestad also sought attorney's fees and an order striking all documents filed by MFL. Aklestad's Opposition to Mauk's motion was supported by your affidavit, wherein you stated that Crawford was never an employee of your firm, though MFL was listed on the pleadings prepared and filed by Crawford on Mauk's behalf.

The motion to disqualify MFL and Aklestad was granted on February 21, 2018, based on the Court's finding of a "clear conflict of interest for Attorney Aklestad to represent Plaintiff/Dad. The conflict is imputted [sic] under the Rules of Professional Responsibility 1.10." Nevada Rule of Professional Conduct 1.1 (Competence) requires a lawyer to utilize the legal knowledge and skill reasonably necessary to provide competent representation. Your failure to recognize the conflict of interest in representing adverse parties in litigation falls below the legal knowledge required.

Nevada Rule of Professional Conduct 1.9 (Duties to Former Clients) prohibits a lawyer from representing adverse clients in the same litigation. Because your firm represented both wife and husband in the same litigation, you were required to obtain informed consent from Mauk. Not only did you not do so, you refused to withdraw when she declined to give consent.

Nevada Rule of Professional Conduct 3.1 (Meritorious Claims and Contentions) prohibits a lawyer from asserting or controverting an issue without a non-frivolous basis in law and fact. Pursuant to the terms of her retainer agreement, you were retained to represent Mauk. Thereafter, another member of your firm was retained to represent the opposing party in the same matter. This conduct is specifically prohibited by the Rules of Professional Conduct, and you set forth no basis in law as to why the rule did not apply in this matter.

Nevada Rule of Professional Conduct 5.1 (Responsibilities of Partners, Managers and Supervisory Lawyers) requires a partner in a law firm to make reasonable efforts to ensure the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct. It also makes an attorney with supervisory authority responsible for another lawyer's violation of the Rules of Professional Conduct if the lawyer has knowledge of and ratifies the conduct. Your firm did not have in place adequate conflict of interest checks to avoid this situation. Additionally, when it was brought to your attention, you failed to properly advise your associate as to the appropriate course of conduct, and in fact supported her failure to recognize the conflict by providing her with an affidavit in support of her opposition to your former client's motion to disqualify your firm.

Accordingly, you are hereby **REPRIMANDED** for having violated Rules of Professional Conduct 1.1 (Competence), 1.9 (Duties to Former Clients) and 5.1 (Responsibilities of Partners, Managers and Supervisory Lawyers).

We trust that this reprimand will serve as a reminder to you of your ethical obligations, and that no such problems will arise in the future.

DOUGLAS K. FERMOILE, ESQ.
Bar No.: 662
Grievance File No.: OBC18-0244
Dated: 10/22/2018

LETTER OF REPRIMAND

To Douglas K. Fermoile:

A Screening Panel of the Northern Nevada Disciplinary Board has reviewed the above-referenced grievance and unanimously determined that a Letter of Reprimand be issued for violations of Rules of Professional Conduct (RPC) 1.15 (Safekeeping of Property).

On February 27, 2018, the Office of Bar Counsel received an overdraft notification from Wells Fargo Bank regarding your IOLTA trust account. A check for $350.00 was presented for payment on February 15, 2018, and was honored despite insufficient funds. The check was to pay a personal expense.

Your explanation for paying the personal expense with a check from your IOLTA trust account was that you mistakenly used the wrong checkbook. You understood that the payment should have come from your general office account.

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Your use of client and/or third-party funds to pay a personal expense violated RPC 1.15 (Safekeeping of Property).

You did transfer funds to cover the check after your received notice from Wells Fargo regarding the overdraft and you represent that you have subsequently relocated the IOLTA trust account checkbook to a different drawer than the general office account checkbook in order to avoid this mistake in the future.

However, aggravating factors that the Panel also considered were (i) you have been licensed to practice law for over 35 years and should have already implemented procedures to avoid paying personal expenses with client or third-party funds that you are holding in trust and (ii) you have been previously disciplined for violating RPC 1.15 (Safekeeping of Property).

Based upon the foregoing, you are hereby **REPRIMANDED** for your conduct which violated RPC 1.15 (Safekeeping of Property). In accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of $1,500 to be paid to the State Bar no later than thirty days after the date of this letter.

NADIN J. CUTTER, ESQ.
Bar No.: 11548
Grievance File No.: OBC18-0077
Dated: 12/05/2018

LETTER OF REPRIMAND

To Nadin J. Cutter:

A Screening Panel of the Southern Nevada Disciplinary Board has considered the above-referenced grievance initiated by your former client, Jean Rigollet. The Panel concluded that you failed to comply with the Rules of Professional Conduct and that a Letter of Reprimand is appropriate. This letter shall constitute delivery of that reprimand.

You represented Mr. Rigollet, a defendant in a civil lawsuit which was filed in April 2016.

In his grievance to the State Bar, Mr. Rigollet objected to paying for your time used to defend the default action which occurred when you failed to file a timely Answer on his behalf.

The Complaint against your client was filed on April 11, 2016. However, you did not initially file an Answer to the Complaint. Instead, you filed a Motion to Dismiss which was denied in December 2016.

On March 14, 2017, plaintiff's counsel filed a Three Day Notice of Intent to Seek Default. You thereafter did not file a timely Answer or a request an extension of time to file it.

The District Court entered the Default against your client on April 21, 2017. On June 23, 2017, you filed for relief, but the court subsequently denied your request.

You filed a Motion for Reconsideration at midnight on October 3, 2017.

However, your motion had been due one minute earlier, by 11:59 p.m. on October 2, 2017. Thereafter, you filed a Motion for Permission to File Reconsideration One Minute Late.

On November 22, 2017, a District Court judge ruled that because courts generally want to decide a case based on its merits, she granted your requests for reconsideration and set aside of the default.

You were permitted to withdraw from Mr. Rigollet's case in December 2017.

Accordingly, you are hereby Reprimanded for violating RPC 1.3 (Diligence). You also are assessed costs of $1,500 pursuant to Supreme Court Rule 120 (Costs).

JOSEPH IARUSSI
Bar No.: 9284
Grievance File No.: OBC17-1578
Dated: 12/13/2018

LETTER OF REPRIMAND

To Joseph Iarussi:

On September 26, 2018, a Formal Hearing Panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. The Panel concluded that you violated the Rules of Professional Conduct and should be reprimanded. This letter shall constitute delivery of that reprimand.

Adam Madi ("Madi") retained you to represent him in a divorce and custody matter in the Eighth Judicial District Court. You charged Madi $1,500, with $750 paid at the onset of representation and the remainder due at the conclusion of the case.

In May 2017, Madi contacted your office twice to determine the status of his case. Both times he was told you were working on it. Thereafter, Madi was arrested and charged with domestic violence against his ex-wife. A temporary protection order ("TPO") was imposed, with a hearing to extend set for June 5, 2017. You appeared for Madi at that hearing after agreeing to represent him in the matter at no additional charge.

Madi informed you of evidence he believed would exonerate him in the form of surveillance video from Smith's Food Market ("Smith's"). You informed Madi you would obtain the video, and sent a process server to Smith's with a subpoena duces tecum. The video was never obtained.

On June 29, 2017, attorney Scott Steinhoff appeared at Madi's arraignment at your request and confirmed to the Court that you were retained counsel. The case was set for trial on September 5, 2017.

You failed to appear at Madi's trial on September 5, 2017. The Court made multiple attempts to reach you without success. As a result, the Court assessed witness fees against you and issued an Order to Show Cause for September 12, 2017. When you failed to appear on September 12, 2017, the hearing was reset for the following day.

On September 13, 2017, you appeared at the Order to Show Cause hearing and indicated you were still representing Madi. The trial was continued to September 26, 2017. You were present on that date and opposed the prosecution's motion to continue. The motion was granted, and the trial rescheduled for October 16, 2017. You were present on that date and Madi was found guilty, with sentencing scheduled for the following day.

On October 17, 2017, you failed to appear for Madi's sentencing hearing. Your office contacted chambers and asked that the matter be trailed to a later calendar, as you were in another department. The matter was continued to the following day, but your office was informed Madi was going to be remanded at that time. You appeared on October 18, 2017, but the Court noted you did not appear to be in an appropriate state of mind to appear on Madi's behalf and a public defender was appointed. The sentencing was again continued to the following day. Madi, then represented by the Public Defenders' Office, received a suspended sentence and a release order was issued. You were not present at the sentencing.

A letter of investigation was mailed to your Supreme Court Rule ("SCR") 79 address on January 2, 2018, via certified mail. The signed receipt was received by the State Bar on January 8, 2018. You failed to respond. On January 25, 2018, the State Bar sent a second letter via certified mail enclosing a copy of the January 2, 2018, letter advising you that your continued failure to respond would be pursued as a separate violation of the Rules of Professional Conduct under SCR 8.1(b). The letter was signed for on February 1, 2018. Again, you failed to respond.

The State Bar, as part of its investigation of this matter, reviewed court records for other proceedings in which you were retained counsel. On September 6, 2017, there was a Motion to Continue in *The State of Nevada v. Ronnie Withers*. You had been retained to Withers, but you failed to appear in court on that date. As a result, the Court set an Order to Show Cause hearing for September 11, 2017 to determine why you should not be held in contempt for failing to appear. You claimed you were ill and were subsequently sanctioned.

On January 11, 2018, there was an Unconditional Waiver hearing held in *The State of Nevada v. Daniel Rodriguez*. You failed to appear at the hearing despite being retained as Rodriguez's counsel. The District Attorney noted prior instances in which you failed to appear for your client and requested that another attorney be appointed to represent Rodriguez.

Nevada Rule of Professional Conduct 1.3 (Diligence) requires you to act with reasonable diligence and promptness in representing your clients. Your failure to appear in court falls below this standard.

Nevada Rule of Professional Conduct 3.4 (Fairness to Opposing Party and Counsel) prohibits a lawyer from knowingly disobeying an obligation of the tribunal. Your failure to appear in court violates this Rule.

Nevada Rule of Professional Conduct 8.1 (Bar Admission and Disciplinary Matters) prohibits a lawyer from knowingly failing to respond to a lawful demand for information from the State Bar. Your repeated failure to respond to the State Bar's investigation into these matters violates this Rule.

Accordingly, you are hereby **REPRIMANDED** for having violated Rules of Professional Conduct 1.3 (Diligence), 3.4 (Fairness to Opposing Party and Counsel) and 8.1 (Bar Admission and Disciplinary Matters).

We trust that this reprimand will serve as a reminder to you of your ethical obligations, and that no such problems will arise in the future.

1. This matter was submitted to the court on the record and we therefore review it without briefing or oral argument. SCR 116(2).
2. Dennie may request that this order of temporary suspension be dissolved or amended by filing a petition with this court as provided in SCR 102(4)(e).
3. 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.
4. The Honorable Michael Cherry, Justice, did not participate in the decision of this matter.
5. Pursuant to NRAP 34(0(1), we have determined that oral argument is not warranted in this matter.

TIPS FROM THE OFFICE OF BAR COUNSEL

Being an ethical lawyer requires more than just technical expertise. It requires consideration of other factors relevant to your clients' situation, including economic, social, moral and even political factors.

Rule 2.1 (Advisor) of the Nevada Rules of Professional Conduct embodies this requirement. The ethical lawyer needs to identify these other influential factors for each respective client. That means telling your client about the potential implications and ramifications of a particular course of action or legal strategy. This requirement goes hand-in-glove with the requirement in Rule 1.4 (Communications) that a lawyer give a client all the information necessary to make informed decisions about the representation. It also means that a lawyer should identify issues that fall in another's area of expertise and suggest that the client get other professionals involved.

Rule 2.1 (Advisor) also requires lawyers to exercise professional, *independent* judgment and render *candid* advice. The independence requirement amplifies a lawyer's obligation to identify potential conflicts of interest in a representation and prevent outside responsibilities from effecting that representation. Not only is it ethical, but rendering *candid* advice is crucial to good lawyering. A lawyer is doing a huge disservice to the client unless the unpleasant facts are confronted and the unpalatable advice given when necessary. It's not always easy, but a lawyer must tell the client the good, the bad and the ugly, not just reflect back what your client wants to hear. The good lawyer gives the client the whole picture; the great lawyer does it in such a way that the client says "thank you," even when given bad news.