

# Bar Counsel Report

**In Re: SPENCER M. JUDD**  
**Bar No.: 10095**  
**Case No.: 87535**  
**Filed: 12/14/2023**

## ORDER TRANSFERRING ATTORNEY TO DISABILITY INACTIVE

The State Bar and attorney Spencer Judd have filed a joint petition asking this court to transfer Judd to disability inactive status because Judd currently is incapable of continuing the practice of law or defending against pending disciplinary proceedings due to medical conditions. Having reviewed the petition and supporting documentation, we conclude that Judd is incapacitated for the purpose of practicing law or defending against pending disciplinary proceedings.

Accordingly, we transfer attorney Spencer Judd to disability inactive status commencing from the date of this order. See SCR 117(2). Any pending disciplinary proceedings or investigations against Judd are suspended. Judd must comply with SCR 117(4) in seeking reinstatement and may resume the active practice of law only upon reinstatement by order of this court. The parties shall comply with SCR 115 and SCR 121.1. See SCR 117(7).

It is so ORDERED.<sup>1</sup>

**In Re: BRIAN J. SMITH**  
**Bar No.: 11279**  
**Case No.: 87435**  
**Filed: 12/14/2023**

## 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 modified conditional guilty plea agreement in exchange for a stated form of discipline for attorney Brian J. Smith. Under the modified agreement, Smith admitted to violating RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property), RPC 1.16 (declining or terminating representation), and RPC 8.4 (misconduct). He agreed to an 18-month suspension, with all but 6 months stayed subject to a 3-year probation and compliance with certain conditions.*

Smith admitted to the facts and violations as part of his guilty plea agreement. The record therefore establishes that Smith violated RPC 1.3, RPC 1.4, and RPC 1.16 by failing to adequately represent two clients, failing to respond to clients' requests for information and inform clients of pending matters, failing to terminate representation when he was unable to continue diligently representing clients, comingling his own funds with client funds in his client trust account, and

depositing a client's unearned advanced fee into his operating account. Additionally, Smith violated RPC 8.4, as he was convicted of misdemeanor DUI and felony reckless driving.

The issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. See *In re Discipline of Arabia*, 137 Nev. 568, 571, 495 P.3d 1103, 1109 (2021) (stating 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).

Smith admitted to knowingly violating duties owed to his clients (diligence, communication, safekeeping property, and declining or terminating representation) and the public (misconduct). Smith's clients were potentially injured by his actions. The baseline sanction for such misconduct, before consideration of aggravating and mitigating circumstances, is suspension. 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."); *id.* at Standard 4.42 ("Suspension is generally appropriate when ... a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client."). The record supports the panel's findings of two aggravating circumstances (substantial experience in the practice of law and a pattern of misconduct) and five mitigating circumstances (absence of a prior disciplinary record, absence of a dishonest motive, personal and emotional problems, cooperative attitude toward proceedings, and remorse). Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Brian J. Smith from the practice of law in Nevada for 18 months, with all but 6 months stayed, retroactive to the temporary suspension imposed on June 16, 2023. *In re Discipline of Smith*, No. 86497, 2023 WL 4056933 (Nev. Jun. 16, 2023) (Order Imposing Temporary Suspension and Referring Attorney to Disciplinary Board). After the six-month actual suspension, Smith will be on probation and monitored by the State Bar for three years subject to the following conditions: (1) Smith must receive no discipline for conduct engaged in during the stay period; (2) Smith shall not engage in solo practice and shall practice in an office with at least one other lawyer and with a supervisor or mentor; (3) Smith shall submit to a NLAP evaluation and follow any recommendations; (4) Smith shall report monthly to the Office of Bar Counsel; (5) Smith shall return \$3,000 to Jason Merten within 60 days from the date of this order; (6) Smith shall return \$2,000 to Katrina Rizvanova within 60 days from the date of this order; and (7) Smith shall comply with the monetary and probationary requirements in EJDC Case No. C-22-370091-1. Additionally, Smith must pay the costs of the disciplinary proceedings, including fees in the amount of \$2,500, see SCR 120(1), as invoiced by the State Bar within 60 days from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

**In Re: HAMPTON M. YOUNG**  
**Bar No.: 11**  
**Case No.: 87512**  
**Filed: 12/22/2023**

## ORDER OF REINSTATEMENT

*This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation to reinstate suspended attorney Hampton M. Young. As no briefs have been filed, this matter stands submitted for decision. SCR 116(2).*

This court suspended Young from the practice of law for one year. Young has completed that suspension. Based on our de novo review, we agree with the panel's conclusion that Young has satisfied his burden in seeking reinstatement by clear and convincing evidence. SCR 116(2); Application of Wright, 75 Nev. 111, 112-13, 335 P.2d 609, 610 (1959) (reviewing a petition for reinstatement de novo). Accordingly, Hampton M. Young is hereby reinstated to the practice of law in Nevada. Young shall pay the costs of the reinstatement proceeding, including \$2,500 under SCR 120, within 30 days from the date of this order, if he has not done so already.

It is so ORDERED.

**In Re: JEREMY D. EVELAND**  
**Bar No.: 8449**  
**Case No.: 87489**  
**Filed: 12/22/2023**

## ORDER OF REINSTATEMENT

*This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation to reinstate suspended attorney Jeremy D. Eveland. As no briefs have been filed, this matter stands submitted for decision. SCR 116(2).*

This court suspended Eveland from the practice of law for five years, required him to pass the Nevada Bar Exam and the Multistate Professional Responsibility Examination (MPRE) within one year of seeking reinstatement, and ordered him to pay the costs of the disciplinary proceedings. Eveland has completed the suspension and complied with the requirements in the disciplinary order.

Based on our de novo review, we agree with the panel's conclusions that Eveland has satisfied his burden in seeking reinstatement by clear and convincing evidence. SCR 116(2); Application of Wright, 75 Nev. 111, 112-13, 335 P.2d 609, 610 (1959) (reviewing a petition for reinstatement de novo). Accordingly, Jeremy D. Eveland is hereby reinstated to the practice of law in Nevada. Eveland shall pay the costs of the reinstatement proceeding, including \$2,500 under SCR 120, within 30 days from the date of this order, if he has not done so already.

It is so ORDERED.

**Case No.: SBN22-00504**  
**Filed: 11/30/2023**

*Editor's Note: In ADKT 0608 filed on September 26, 2023, the Supreme Court of the State of Nevada amended Supreme Court Rules 99-122. According to the ADKT, bar counsel shall publish all admonitions in the bar publication for the education of the profession but shall not identify the respondent therein.*

## ADMONITION

A Screening Panel of the Southern Nevada Disciplinary Board has reviewed the above-referenced grievance and unanimously determined that an Admonition be issued for violation of Rule 8.1 of the Nevada Rules of Professional Conduct ("RPC") and Rule 78 of the Nevada Supreme Court Rules ("SCR").

## UNDERLYING FACTS

### To [Attorney]:

You represented a client in a personal injury claim. The claim resolved by settlement in November 2021. In October 2022, the client grieved to the State Bar, claiming that you had failed to adequately communicate and/or distribute the settlement funds timely. As part of its investigation of the client's allegations and to confirm that the client's funds were being kept safe, the State Bar requested copies of your deposit of the various checks and bank statements for the accounts holding the funds on May 5, 2022. You provided only a Quickbooks printout of your office's ledger for the client's funds received. The ledger was also titled with a bank different than the one you advised the State Bar of, as required by SCR 78.

On May 30, 2022, the State Bar renewed its request for the bank statements that confirmed the client's funds were being kept safe in a Client Trust Account. In response, you provided copies of the deposited checks, but not the requested bank statements. The State Bar was compelled to subpoena your bank records to independently confirm that the client's funds were being kept safe during this period of time. The first subpoena was for the client trust account you identified in your SCR 78 disclosures. The client's funds were not deposited into that trust account. The second subpoena was to the bank identified on your Quickbooks ledger. However, the State Bar did not have a full account number and the bank did not provide any documents in response to that second subpoena.

On August 9, 2023, the State Bar again requested you provide the bank statements that showed the client's funds were being kept safe. The State Bar also identified that it appeared you failed to adequately report your client trust account information and suggested that you update that information. Finally, the State Bar requested you provide an update on the status of the client's pending matter. On October 2, 2023, the State Bar received notification from the client that in July 2023, she approved the settlement distribution you provided her. You represented to the State Bar that you had been waiting to provide the final accounting and distribute the funds until you received sufficient documentation of all

CONTINUED ON PAGE 38

outstanding medical liens. Yet, you failed to provide the final accounting and notice of the distribution to the State Bar.

The State Bar used the October 2023 documents provided by the client to subpoena your client trust account. The records received in response to the subpoena finally verified that you kept all of the client's funds, including that allocated as your attorney's fee, until the distribution was approved by the client. Unfortunately, this bank account was not disclosed to the State Bar, as required by SCR 78. You still have not updated your client trust account information with the State Bar.

The State Bar was able to verify that you adequately communicated with your client and represented her in the personal injury matter. However, you failed to (i) respond to the State Bar's requests for information, as required by RPC 8.1(b) (Bar Admission and Disciplinary Matters) and (ii) update your client trust account information as required by SCR 78(5) (Maintenance of trust funds in approved financial institutions; overdraft notification.). These failures resulted in a significant delay in evaluating the grievance submitted and a substantial outlay of State Bar resources investigating the information necessary to evaluate the grievance.

### APPLICATION OF THE ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS

ABA Standard 7.4 provides that "[a]dmonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the lawyer's

conduct violates a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system."

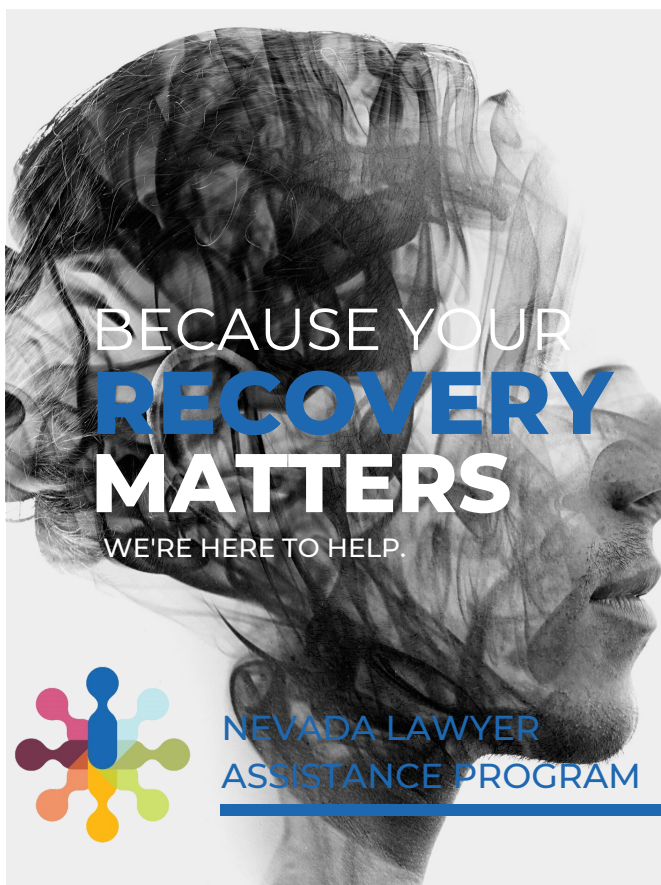
As stated above, your professional obligation is to comply with RPC 8.1(b) and SCR 78(5). You failed to adequately respond to the State Bar's inquiries and keep your information updated, thus violating these professional obligations. You are an experienced attorney and have participated in the discipline grievance process before. Thus, these obligations are familiar to you. Nonetheless, the Panel acknowledges that your failures did not cause injury to a client, however, they did cause injury to the efficiency of the disciplinary process.

### ADMONITION


Based upon the foregoing, you are hereby **ADMONISHED** for your violation of RPC 8.1 (Bar Admission and Disciplinary Matters) and SCR 78(5) (Maintenance of trust funds in approved financial institutions; overdraft notification.). Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$750 which is due no later than 30 days after the mailing of this admonition.

### ENDNOTE:

1. This order constitutes our final disposition of this matter. with SCR 121(7), this order is public but all other proceedings and documents in this matter shall remain confidential.



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# TIP

## FROM THE BAR COUNSEL

### Rules of Professional Conduct Protect Clients When Lawyers Leave Their Firms

**Lawyers make a living selling their time, which is complemented by their knowledge and experience. A privately practicing lawyer contracts with clients to spend certain amounts of time for the client's benefit in exchange for a particular price, whether that is an hourly rate or a lump sum.**

Often lawyers practice in firms. A client can benefit from a firm arrangement because of the consolidation of knowledge or experience among the firm's lawyers. Lawyers benefit from a firm arrangement because they can share administrative responsibilities and assist each other in how best to represent a client. A client may hire a law firm to represent it, but despite the broader firm engagement, the firm usually assigns a primary lawyer to manage client interactions. Those assigned lawyers, not all lawyers in the firm, sign pleadings and appear in court on the client's behalf. The court relies on the lawyer's unique bar license number to confirm that the representation is the authorized practice of law.

What should happen when a lawyer leaves a firm? Who gets the client? Who can contact the client?

First, both the departing lawyer and the firm have an obligation to inform the clients promptly about the change. ABA Formal Opinion No. 489 details best practices for the firm and departing lawyer to inform clients of the dissolution of the relationship. Clients need to know their options: staying with the firm, following the departing lawyer, or seeking new representation. The lawyer and firm should cooperate to draft and send a joint statement to the clients with their options.

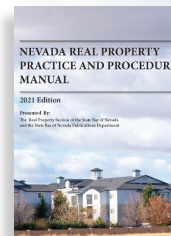
Second, if the representation involves litigation, then the departing lawyers must inform the court of their withdrawal. RPC 1.16 (Declining or Terminating Representation) requires the departing lawyer to protect the client's interests despite withdrawal. This means that the withdrawing lawyer must assist the remaining or new lawyers within reason before, during, and after the separation.

If you or another lawyer contemplates leaving the firm, then embrace the moment as a chance to reinforce the clients' trust in the legal system and inspire confidence in them. Turn these challenges into opportunities for growth.

## BOOKS FROM THE BAR



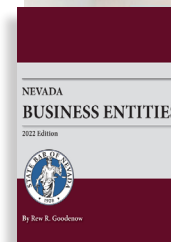
The State Bar of Nevada has several reference publications available to meet the needs of Nevada attorneys, from comprehensive guides to compilations of templates in a variety of practice areas.



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