ROBERT A. KOENIG
Bar No.: 3203
Case No.: OBC16-1079
Filed: November 29, 2017

LETTER OF REPRIMAND

To Robert A. Koenig:

This matter came before a Formal Hearing Panel on November 28, 2017. The Formal Hearing Panel accepted your Conditional Guilty Plea to violating RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers) and found the following: From February 4, 2005, to September 28, 2016, "Alessi & Koenig" was a Domestic Limited-Liability Company registered with the Nevada Secretary of State. You and David A. Alessi ("Alessi") were the registered managing officers of Alessi & Koenig.

You are licensed to practice law in California and Nevada. Alessi obtained his Juris Doctorate from the University of LaVerne College of Law in Ontario, California. He has been licensed to practice law in California since 2004; however, he is not licensed to practice law in Nevada.

At all times relevant hereto, Alessi & Koenig was registered as a Multijurisdictional Practice ("MJP") in Nevada, in accordance with RPC 7.5A. The Alessi & Koenig MJP Applications submitted to the State Bar on October 8, 2015, and January 12, 2016, identify you as the Managing Partner/Principal Shareholder applicant for MJP status, certifying that the information contained in the Application and its attachments is true and correct.

The MJP applications identify addresses for the firm in Las Vegas, Nevada and Agoura Hills, California. Despite being the only Nevada-licensed partner at Alessi & Koenig and the identified Managing Partner/Principal Shareholder applicant for the MJP Application, Respondent did not participate in the completion, and submission, of the MJP Application.

You have always practiced law in Agoura Hills, California, under a different firm name, and you have never practiced in the Las Vegas office of Alessi & Koenig. Instead you have always deferred to California-licensed Alessi for operation of that office. Nonetheless, you received $400-$2,250 per month as a partner in Alessi & Koenig. Alessi & Koenig employed Thomas J. Bayard ("Bayard"); Bayard obtained his Juris Doctorate from the University of LaVerne College of Law in Ontario, California, and was licensed to practice law in California [sic] 2003. Bayard is not licensed to practice law in Nevada. Although you initially objected to the firm employing Bayard, you did not prevent it, insist on particular office procedures because of it, or change your involvement in the Las Vegas office of the firm to address your concerns about Bayard.

In January 2012, Bayard was subject to a two-year suspension of his California Bar license, with 60 days being actually served and the balance being stayed with Bayard placed on four years of probation. Bayard was also suspended for one year from the practice of law in California on October 11, 2015, based on a Recommendation filed April 11, 2015.

On June 30, 2016, at a Judgment Debtor Examination, Bayard was the designated Alessi & Koenig witness to testify as the person most knowledgeable concerning the firm's finances and business practices. Bayard was suspended from practicing law when the examination took place.

The Wells Fargo Bank, Nevada IOLTA account for Alessi & Koenig (ending 6484) identifies you, Alessi, and Bayard each as a "Key Executive with Control of the Entity" of Alessi & Koenig, with each being named as an "Owner/Key Individual" on the IOLTA account, and all being identified as signatories for the account. Alessi's and your position/title on the account is identified as "Attorney"; Bayard's position/title is identified as "Lawyer." Bayard was not removed from the Nevada IOLTA for A&K when he was suspended. You did not participate in the management of the Nevada IOLTA account, relying instead on Alessi and Bayard to properly handle that account.

For the entirety of Alessi & Koenig firm's existence, you practiced law solely out of the office in California and minimally participated in the supervising of attorneys in the Nevada offices of Alessi & Koenig. Your supervision consisted of assisting and consulting with Alessi & Koenig attorneys regarding personal injury matters. You did not participate in office management in the Las Vegas office of Alessi & Koenig or any of the representations in the HOA-related matters.

Nonetheless, you were aware of issues with the office management at Alessi & Koenig no later than 2011; however, you did not increase your participation in the management of the Las Vegas office of the firm or otherwise take reasonable measures to ensure that the Rules of Professional Conduct were being followed within the firm. You did occasionally try to instruct Alessi and Bayard about conducting the Alessi & Koenig office in a manner consistent with the Rules of Professional Conduct, but you did not confirm that changes were made in the Alessi & Koenig office or increase your presence in the Alessi & Koenig office to ensure that your instructions were followed.

As with all other matters pending in the Las Vegas, Nevada office of Alessi & Koenig, you did not participate in the prosecution or strategy of HOA-litigation matters. All partner-level decisions in the Las Vegas, Nevada office were made by Alessi and Bayard. You were so detached from the Alessi & Koenig office in Las Vegas that you were unaware of the *Big Mountain* proceedings and the firm's failure to comply with the Court's Orders in that matter.

In 2016, you did disassociate yourself from Alessi, and the firm Alessi & Koenig, because they filed a Complaint under your name without your permission.

Violation of the Rules of Professional Conduct

Pursuant to RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers), you had a duty to make reasonable efforts to ensure that the Alessi & Koenig office in Las Vegas, Nevada was conforming with the Rules of Professional Conduct. You were on notice that the administration of the Alessi & Koenig Las Vegas office was most likely generally not complying with the Rules of Professional Conduct but you failed to take additional reasonable measures to remedy the situation.

You knowingly violated RPC 5.1 when you failed to monitor what was happening in the Alessi & Koenig Las Vegas, Nevada office and the office (i) submitted untruthful MJP Applications without your review, consent or actual signature, (ii) had non-Nevada licensed attorneys, including a California-suspended attorney, directing the Nevada IOLTA account, which included failing to timely distribute funds, and (iii) had associate attorneys failing to comply with Court Orders in the *Big Mountain* litigation.

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The Panel has also considered that (i) you were previously disciplined for a violation of RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants) in conjunction with conduct in the Alessi & Koenig office, (ii) your conduct was motivated, at least in part, by the threatening nature of Alessi and Bayard, (iii) you have fully and freely disclosed what you know about the Las Vegas office of Alessi & Koenig and cooperated with the State Bar and (iv) you have exhibited remorse for your part in facilitating the conduct of the others at the Las Vegas office of Alessi & Koenig. In consideration of these additional factors, the Panel finds that the appropriate discipline in this instance is less than the presumptive sanction of a suspension.

In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers) and are hereby REPRIMANDED.

DAVID J. OTTO
Bar No.: 5449
Case No.: OBC16-1231
Filed: December 7, 2017

PUBLIC REPRIMAND

To David J. Otto:

On Monday, November 13, 2017, a Hearing Panel of the Southern Nevada Disciplinary Panel convened to determine whether your representation of your clients violated the Rules of Professional Conduct as part of a Conditional Guilty Plea.

Grievance File OBC16-1231

In the first matter, you represented several clients who sought treatment at a Las Vegas doctor's office who provided medical services on a lien basis. The lien specialist from the office contacted the State Bar of Nevada because she was made aware that numerous individuals you represented that were treated by the doctor had settled but the liens had not been paid.

As a result of this complaint, the State Bar reviewed your bank account records which revealed that numerous client checks were inappropriately deposited into your operating account. There were several instances where clients were paid their portions of settlements from the settlements of other clients.

Additionally, you indicated in response to a Letter of Investigation that some of the clients' matters had not settled when there was evidence from your bank account that they had, and that some of the accounts had settled for less than the deposits indicated.

You explained these discrepancies by indicating that your office had "cash flow issues;" however, this statements [sic] ignores the most basic premise that client money is to be safeguarded in a designated trust account and not comingled with other monies. Indeed, records reveal that your trust account constantly failed to have sufficient funds to pay the liens from the cases you resolved on behalf of your clients.

In this matter you violated RPC 1.3 (Diligence) for not timely resolving the medical liens. You also violated RPC 1.4 (Communication) for failing to adequately advise the doctor's office as to the status of the cases in questions and that the matters had been resolved. You violated RPC 1.15 (Safe-keeping Property) for depositing settlement checks into your operating account and for not using the proceeds of the settlements to resolve the outstanding liens. In addition, you violated RPC 8.1 (Bar Admission and Disciplinary Matters) for failing to respond to the State Bar truthfully by giving the State Bar erroneous information as to the status of your cases and the amount the cases settled for. Finally, you violated RPC 8.4 (Misconduct) for your actions in this matter.

Grievance File OBC16-1430

In this case, an individual had approached your office in an effort to seal his criminal record. He met with a non-lawyer employee of yours who indicated that your office would be able to handle the matter and received $500 in cash for the representation in addition to various money orders made payable to Las Vegas Justice ostensibly to pay related court fees. Your client waited three years for the records to be sealed yet nothing was done on his behalf. During those three years, when your client would contact your office, he was given the runaround by your non-lawyer employee.

When the State Bar inquired about this matter, you indicated that you had never heard of the client and that, if he did in fact pay $500, your non-lawyer employee had embezzled the funds. When the State Bar asked you for additional information regarding this employee, including whether you reported the theft to law enforcement and the details of the employees employment with your office, you failed to respond.

As such, you violated RPC 1.3 (Diligence) for failing to represent your client in a timely fashion. You also violated RPC 1.15 (Safe-keeping Property) for failing to ensure that your client's funds were protected even from your own employees. Your conduct was also in violation of RPC 5.3 (Responsibilities Regarding Non-lawyer Assistants) for not ensuring that your employees conduct comported professional obligations of the lawyer, and RPC 8.1 (Bar Admission and Disciplinary Matters) for failing to respond to the State Bar regarding this investigation.

OBC17-0103

In this matter, you agreed to represent your client regarding a divorce matter. Your client complained that he had issues regarding communication with you and that he could not get an updated status as to his case. Indeed, according to your client, he was only able to speak directly with you for a total 24 minutes and there was no communication in the weeks leading up to his trial.

When the State Bar sent you a letter regarding this matter, you signed the receipt for the letter but never responded. As such you violated RPC 1.3 (Diligence) and RPC 1.4 (Communication) for failing to timely respond to your client's request for information. You violated RPC 1.5 (Fees) for collecting $3,000 in fees without doing the corresponding work to justify the fees received, and RPC 8.1 (Bar Admission and Disciplinary Matters) for failing to respond to the State Bar regarding this investigation.

Although the Hearing Panel had concerns regarding this resolution, they ultimately approved the negotiation between you and the State Bar because of your agreement to discontinue the practice of law and resign from the State Bar of Nevada and due to the fact that, prior to the hearing, you had made full restitution to all victims. Nonetheless, your conduct fell substantially below the minimum duties an attorney owes their client and to the system itself. As such, you are PUBLICLY REPRIMANDED.

In Re: KEVIN R. HANSEN
Bar No.: 6336
Case No.: 73626
Filed: February 9, 2018

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

Attorney suspended one year, with the suspension stayed, following admissions to one violation of RPC 1.4 (communication),

one violation of RPC 1.15 (safekeeping property), and two violations of RPC 8.4(d) (misconduct: conduct prejudicial to the administration of justice). Attorney placed on probation for 18 months, subject to conditions.

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 Kevin R. Hansen. Under the agreement, Hansen admitted to one violation of RPC 1.4 (communication), one violation of RPC 1.15 (safekeeping property), and two violations of RPC 8.4(d) (misconduct: conduct prejudicial to the administration of justice). The agreement provides for a one-year suspension with the suspension stayed for an 18-month probationary period subject to conditions.

Hansen has admitted to the facts and violations. Thus, the record establishes that he violated RPC 1.4 and RPC 8.4(d) by failing to communicate with his client or inform her that he had left his law firm and taken her case with him and by failing to timely oppose a motion and file an expert witness disclosure on her behalf. He has also violated RPC 1.15 and RPC 8.4(d) by failing to properly maintain his trust account, overpaying himself attorney fees, and failing to timely pay clients' lienholders.

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 and mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008). Hansen violated duties owed to his clients (communication and safekeeping property) and the legal system (engaging in conduct prejudicial to the administration of justice) and the admitted violations reflect a combination of negligent and knowing misconduct. His clients were injured because their lienholders were not timely paid or they were overcharged attorney fees. Further, one of his clients was injured because her complaint was dismissed against two defendants. There are three aggravating circumstances (pattern of misconduct, multiple offenses, and substantial experience in the practice of law) and six mitigating circumstances (absence of a prior disciplinary record, absence of dishonest or selfish motive, timely good faith effort to make restitution or to rectify consequences of misconduct, character or reputation, interim rehabilitation, and remorse). SCR 102.5.

The baseline sanction before considering 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 2015) ("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. Standard 7.2 (providing that suspension is the baseline sanction 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"). Considering all of the factors, we conclude that the guilty plea agreement should be approved. See SCR 113(1).

Accordingly, we hereby suspend attorney Kevin R. Hansen from the practice of law in Nevada for one year. The suspension shall be stayed and Hansen shall be on probation for 18 months from the date of this order subject to the following conditions: (1) Hansen must provide quarterly audits of his trust account to the State Bar starting December 1, 2017, and then by the last day of April, July, October, and January thereafter through the term of the 18-month probation; (2) Hansen must have no grievance for which a screening panel determines that a formal hearing is warranted during the probationary period, including but not limited to matters that occurred before the July 6, 2017, plea agreement; (3) failure to comply with the probation conditions will result in the imposition of the one-year suspension; and (4) he shall pay the actual costs of the disciplinary proceedings, plus $2,500 under SCR 120 within 30 days of the date of this order. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

In Re: JEFFREY P. AYLWARD
Bar No.: 7943
Case No.: 73662
Filed: February 9, 2018

ORDER OF SUSPENSION

Attorney suspended for one year, served concurrently with a separate three-year suspension, based on violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.16 (declining or terminating representation) and RPC 8.4 (misconduct).

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's findings of fact, conclusions of law, and recommendation that this court suspend attorney Jeffrey P. Aylward from the practice of law for one year based on violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.16 (declining or terminating representation) and RPC 8.4 (misconduct) with that suspension to run concurrently with a three-year suspension imposed by this court on October 21, 2016. 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 Aylward committed the violations charged. *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).

The violations in this matter, as set forth in the formal complaint concern Aylward's representation of a client in a civil action. The client paid Aylward $3,000 to represent him in a loan dispute matter, but Aylward did not file anything on the client's behalf and a $14,897 judgment was entered against the client. Despite the client's numerous attempts to contact Aylward, Aylward stopped communicating with the client after accepting his money. After seeking to set aside a default concerning the bar complaint, Aylward filed an answer, but he thereafter failed to appear at two status hearings and the

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formal disciplinary hearing, despite having been notified of the dates and times for those proceedings. The admitted exhibits included a hearing packet containing the complaint; Aylward's motion to set aside the default; Aylward's answer; notices and scheduling orders; an affidavit of Aylward's disciplinary history, which is as reflected in this court's October 21, 2016, in Docket No. 71049, order; and a copy of a satisfaction of judgment showing that the client paid the $14,897 judgment. The client testified regarding Aylward's representation of him, which supported the complaint's allegations concerning Aylward's professional misconduct.

The panel found that Aylward violated RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.16 (declining or terminating representation), and RPC 8.4 (misconduct). We defer to the hearing panel's findings of fact in this matter as they are supported by substantial evidence and are not clearly erroneous. Based on those findings, we agree with the panel's conclusions that the State Bar established by clear and convincing evidence that Aylward 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. 116, 213, 756 P.2d 464, 527-28 (1988) (noting the purpose of attorney discipline).

The record supports the panel's determination that Aylward knowingly violated duties owed to his client (diligence, communication, fees, and declining or terminating representation) and the legal profession (misconduct). The client was harmed because he received no legal service for his $3,000, he was unable to timely retain another attorney to defend him in the action, and he lost the action resulting in a judgment against him of $14,897. The panel found and the record supports five aggravating circumstances (dishonest or selfish motive, pattern of misconduct, multiple offenses, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law) and one mitigating circumstance (mental disability or chemical dependency). (Aylward's motion to set aside the default explained that he suffered from a serious medical condition, prescription drug dependency, depression, and personal issues around the time he was representing the client whose grievance was addressed in the underlying disciplinary proceeding and the clients whose grievances were addressed in the prior disciplinary matter).

Considering all of these factors, we agree that a suspension is warranted. *See* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.42 (Am. Bar Ass'n 2015) ("Suspension is generally appropriate when … a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client."). Because the three-year suspension in *In re Discipline of Aylward*, Docket No. 71049 (Order of Suspension, Oct. 21, 2016) was imposed for similar rule violations, close in time to the conduct at issue here, we agree that the one-year suspension in this matter should run concurrent with the suspension in Docket No. 71049, and that the concurrent suspensions will serve the purpose of attorney discipline.

Accordingly, we hereby suspend Jeffrey P. Aylward from the practice of law in Nevada for one year to be served concurrently with the three-year suspension imposed in Docket No. 71049. Within 60 days from the date of this order and as a condition precedent to reinstatement, Aylward shall reimburse the Client [sic] Security Fund $3,000. Additionally, Aylward shall pay $2,500 in costs 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.

KEEN L. ELLSWORTH
Bar No.: 4981
Case Nos.: OBC15-I 073; OBC 15-1197; OBC15-1 23 1; OBC15-1 3 14; OBC15-1 329; OBCI5-1 333; OBC15-1 334; OBC I5-1 343; OBC15-1 350; OBC15-1351; OBC 15-1 352; OBC15-1 353; OBC15-1446; OBC15-1501; OBC 15-1502; OBCI 6-0004; OBC 16-0273
Filed: January 10, 2018

PUBLIC REPRIMAND

To Keen L. Ellsworth:

STATEMENT OF FACTS:

In or about early May 2015 you consulted with a potential new client ("client") regarding the creation of a corporate structure and asset protection plan that would manufacture and sell products that the client claimed he had created and to protect his assets. At that meeting the client claimed to have developed 30 technologies. The representations of client regarding his rights to the intellectual property and products were false, although you did not know of the falsity of those representations at the time they were made.

Within a matter of days of the initial consultation, your client showed you some products that he claimed he owned the intellectual property rights to. You thought the products the client demonstrated for you were "truly amazing." Your client further informed you that he had the intellectual property rights to the products and that he already had customers ready to purchase those products.

Your client informed you that he had an investor who would provide money to develop and sell the products. You knew the potential investor that your client had identified. Based upon your knowledge of the proposed investor, you formed the opinion that the investment money was not likely to come from that source and informed your client of that opinion and then discussed the concept of a reverse merger with your client.

You informed your client that you "had no significant experience with reverse mergers" but could find someone who had such experience to assist.

You introduced a consultant to your client as a person experienced with reverse mergers who would be retained by your law firm to assist your client with the reverse merger process and in obtaining funding through that process. The Legal Services Agreement ("Agreement") between you and your client allowed you to retain consultants to assist you in the representation. You informed your client that certain fees payable to consultant would be paid from the retainer. According to the Agreement, the $80,000 fee for the representation would be paid to you from the funds obtained from investors in the reverse merger. The Agreement also required your client to pay you 20% of all issued

and outstanding shares of stock in the publicly traded company as part of your fee.

As to the issuance of equity to you as part of your fee, you failed to advise your client in writing of the desirability of seeking the advice of independent legal counsel [sic] the fairness of the transaction or give your client a reasonable opportunity to seek the advice of independent legal counsel. Nor did you obtain an express informed consent or waiver, in a writing signed by your client, of the essential terms of the equity transaction and your role in the transaction.

On June 19, 2015, you filed documents with the Nevada Secretary of State causing the formation of a Nevada corporation which was to be your client's private company to be merged with a public company.

Consultant informed your client that he ("consultant") would run the concepts by his contacts at a stock brokerage company to determine whether there was a market for the company. Consultant told your client that there was a strong demand for the company's product and that the reverse merger could be completed within a few weeks if your client worked fast. You sent an email dated May 12, 2015, to your client, containing a draft of directions for investors to submit funds to your trust account to purchase shares in the public company.

Sometime after work had begun on the reverse merger, you and consultant began to have concerns that your client did not actually own the intellectual property or have purchase orders in place that he had represented that he had. Your client eventually admitted that he did not own all of the intellectual property/technology, but that he could get license agreements for the technology that he did not own. Your client, however, never provided you with license agreements or patents to confirm that he owned any of the technology, nor any purchase orders to confirm that he had customers ready to buy his products.

On the morning of July 2, 2015, you met with your client and expressed your concerns that, because your client had raised money based on false representations, he had committed fraud. As such, you advised your client that you could no longer represent him and followed up with a letter. Shortly thereafter, consultant resigned as client's consultant for the reverse merger. The grievants, with the exception of your client, were potential investors in the reverse merger who provided non-refundable funds for the purchase of shares in the public company.

Your client never paid you any fee personally nor did your client deposit any money into your trust account for investment or any other purposes. You represented your client from on or about May 18, 2015 to July 2, 2015. You never received any equity in any public company pursuant to the Agreement; however, based upon the foregoing, you violated RPC 1.8(a) by entering into the Agreement which sought an equity interest in your client's proposed public company as a fee without advising your client, in writing, of the desirability of seeking advice of independent counsel and by failing to obtain informed consent and/or a waiver, in writing, from your client regarding the equity transaction. Accordingly, you are hereby PUBLICLY REPRIMANDED.

In Re: SEAN L. BROHAWN
Bar No.: 7618
Case No.: 73964
Filed: February 23, 2018

ORDER APPROVING CONDITIONAL GUILTY PLEA

This is an automatic review of a Northern 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 Sean L. Brohawn. Under this agreement, Brohawn admitted to violating RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property), RPC 1.16 (declining or terminating representation), RPC 3.2 (expediting litigation), RPC 5.5 (unauthorized practice of law), RPC 8.1 (bar admission and disciplinary matters), and RPC 8.4 (misconduct). The agreement provides for an 18-month suspension to run consecutively from his 6-month-and-1-day suspension in *In re Discipline of Brohawn*, Docket No. 72510 (Order of Suspension, June 13, 2017). The agreement further provides for the payment of $15,820 in restitution to former clients, plus additional amounts based on the clients' proof of payments; payment of the fees and costs associated with having a judgment against one client set aside or, if setting aside the judgment is not possible, payment of the judgment; and payment of $2,500 in fees plus the actual costs of the disciplinary proceedings. The Board also included additional conditions on reinstatement, to which Brohawn agreed: evidence of payment of restitution, a report from a licensed mental health professional opining that Brohawn is fit to resume the practice of law, and 90-day status reports from the licensed mental health professional treating Brohawn during the length of the suspension.

Brohawn admitted to the facts and violations alleged in the complaint. The record therefore establishes that Brohawn accepted client money without performing the requisite legal work, failed to keep in communication with his clients or misrepresented the status of clients' cases, failed to return client money that he had not earned, worked on client matters while he was administratively suspended from the practice of law, and failed to respond to the State Bar's inquiries.

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). In this case, Brohawn violated duties owed to clients and other duties owed as a legal professional. Brohawn's mental state was with knowledge. There was actual injury, and the potential for more injury, to Brohawn's clients in the form of mishandled money and cases. The panel found and the record supports three aggravating factors (pattern of misconduct, multiple offenses, and substantial experience in the practice of law) and two mitigating factors (an admitted mental disability that he is working with a mental health professional to remedy (While this mitigating factor is not specifically listed in SCR 102.5(2)'s list of potential mitigating factors, that list "is illustrative and is not exclusive.") and full and free disclosure to disciplinary authority or a cooperative attitude toward the proceeding).

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Based on the most serious instances of misconduct at issue, *see* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standard*s 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.* at Standard 4.42 (providing that suspension is appropriate when an attorney "knowingly fails to perform services for a client" or "engages in a pattern of neglect" and causes injury or potential injury to a client), 4.62 (providing that suspension is also appropriate "when a lawyer knowingly deceives a client, and causes injury or potential injury to the client"). In light of the foregoing, we conclude that the agreed-upon 18-month suspension is appropriate. The duration of the suspension along with the other conditions imposed are sufficient to serve the purpose of attorney discipline – to protect the public, the courts, and the legal profession, not to punish the attorney. *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988). Thus, we conclude that the guilty plea agreement should be approved. *See* SCR 113(1).

Accordingly, we hereby suspend attorney Sean L. Brohawn from the practice of law in Nevada for a period of 18 months, to run consecutive to his suspension in *In re Discipline of Brohawn*, Docket No. 72510, or, if that suspension has already ended, to commence from the date of this order. Brohawn shall pay restitution totaling $15,820 to the clients in the amounts set forth in the conditional guilty plea agreement, plus any additional amount supported by proof submitted within 30 days of the date of this order as to the one client identified as potentially due such additional payment. Also, Brohawn "shall remedy the monetary consequences of his failures for [the clients identified in the conditional guilty plea agreement], whether by having the [default] judgment set aside, and paying for the attorney's fees and costs associated with such setting aside of the judgment, or otherwise satisfying the judgment if it cannot be set aside." Brohawn must submit evidence of payment of restitution and remedying the default judgment with any petition for reinstatement. Brohawn shall pay the costs of the disciplinary proceedings, plus fees in the amount of $2,500, within 30 days of the date of this order. SCR 120. In order to be reinstated, Brohawn must provide in his petition for reinstatement a report from a licensed mental health professional opining that Brohawn is fit to resume the practice of law and 90-day status reports from the licensed mental health professional treating Brohawn during the length of the suspension. Under SCR 115(7), Brohawn has 15 days within which to wrap up or complete matters he is handling for existing clients. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

SEAN L. BROHAWN
Bar No: 7618
Case No.: OBC17-0977
Filed: February 7, 2018

LETTER OF REPRIMAND

To Sean L. Brohawn:

A Screening Panel of the Northern Nevada Disciplinary Board recently reviewed the above-referenced grievance file. The Panel unanimously concluded that a Letter of Reprimand should be issued to you for violation of RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.5 (Fees), RPC 1.15 (Safekeeping Property), RPC 8.1(b) (Bar Admissions and Disciplinary Matters) and RPC 8.4 (Misconduct).

You were hired in February 2016 to file a Quiet Title action on a home in Sparks, Nevada for which the client paid you a $3,000 retainer (After you were retained, you helped the client successfully file for an un-related extended TPO against his ex-wife.). The client paid you an additional $4,000 between February 29, 2016 and April 29, 2016. The client reports that shortly thereafter he had difficulty reaching you by phone; the voicemail box for the cell phone number you gave him was always full and unable to accept messages. The client claims that, due to the lack of contact and delay of process, he lost 2 separate potential sales of the property in 2016.

With his grievance, the client provided a copy of a Complaint to Quiet Title that you prepared and said was filed in May, 2017. The client noticed that the copy did not have a file stamp so he asked you to confirm that the document had indeed been filed. You claimed that the dollar sign in front of the document code was in lieu of an electronic stamp and meant that the filing office had collected money. The client further claims that you told him that it would take up to a month to have a case number and judge assigned to the case because the courts were so busy.

The client questioned your alleged progress on the case, and therefore, checked into the filing of the quiet title action. On August 2, 2017, it was reported to the Office of Bar Counsel that only through this research did your client discover that you had been suspended in June, 2017. Further, it was discovered that you had provided a fraudulent case number to the client – the case number was for an unrelated matter involving a Minor's Compromise Claim.

The client did subsequently retain other counsel to handle the quiet title action and the representation is now proceeding in a timely manner.

Your failure to move the case forward for over a year is a violation of your duties pursuant to RPC 1.3 (Diligence) and RPC 8.4(d) (Misconduct – prejudicial to the administration of justice). Your failure to adequately communicate with your client is a violation of your duties pursuant to RPC 1.4 (Communication). Your failure to perform sufficient services for the client to make the $7,000 fee reasonable is a violation of RPC 1.5 (Fees) and your failure to safe-keep and return the funds to the client when it was clear you could not perform the services is a violation of RPC 1.15 (Safekeeping of Property). Finally, your misrepresentation to the client regarding the filing of a case on his behalf was a violation of RPC 8.4(c) (Misconduct – dishonesty).

In addition, the Office of Bar Counsel forwarded you a copy of your former client's grievance and requested a response. You failed to respond, which is a separate violation of RPC 8.1 (Bar Admission and Disciplinary Matters).

The Panel felt that this misconduct warranted suspension. But the Panel considered, as a mitigating factor, that you are already suspended for six-months-and-one-day for similar misconduct during substantially the same time period, and therefore, it expects that you will be required to account for this misconduct at any reinstatement hearing held in the future.

Accordingly, you are hereby REPRIMANDED for violating RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.5 (Fees), RPC 1.15 (Safekeeping Property), RPC 8.1(b) (Bar Admissions and Disciplinary Matters) and RPC 8.4 (Misconduct). The Panel instructed that in addition to this Letter of Reprimand, you must return the $7,000 to your former client within 30 days of the formal issuance of this Letter of Reprimand. I 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.

SEAN L. BROHAWN
Bar No.: 7618
Case No.: OBC17-1004
Filed: February 7, 2018

LETTER OF REPRIMAND

To Sean L. Brohawn:

A Screening Panel of the Northern Nevada Disciplinary Board recently reviewed the above-referenced grievance file. The Panel unanimously concluded that a Letter of Reprimand should be issued to you for violation of RPC 1.5 (Fees), RPC 1.15 (Safekeeping of Property), RPC 1.16 (Declining or Terminating Representation), and RPC 8.1(b) (Bar Admissions and Disciplinary Matters).

A client hired you on May 10, 2017, to work on a title issue and possibly file a quiet title action involving property your client wished to sell in Dayton, Nevada. You were paid a $5,000 retainer which you instructed be deposited directly into your firm's operating account. Your client alleges that you promised to send him a retainer agreement for his signature, but never did.

Your client reports that at the end of May, the two of you communicated by phone and, at your request, your client provided the documents you said were needed to complete the task. In late June, you returned a call to your client and explained that you had been suspended by the Nevada Supreme Court and would not be able to continue with the case.

You suggested that your client contact a particular attorney about taking over the case and offered to transfer both the retainer and the file to the new counsel. It was further reported to the State Bar that you never sent your former client a retainer agreement, a statement or a bill for services. Your former client retained new counsel, who did not have benefit of either the file of documents that were given to you or the retainer. The other counsel handled the quiet title action and the representation is now completed.

Your failure to perform sufficient services for the client renders the $5,000 fee unreasonable, and therefore, it is a violation of RPC 1.5 (Fees). Your failure to safe-keep, and return, the funds to the client when it was clear you could not perform the services is a violation of RPC 1.15 (Safekeeping of Property). Finally, your failure to provide the file documents, and the unearned retainer funds, to the client was a violation of your obligations pursuant to RPC 1.16 (Declining or Terminating Representation).

In addition, the Office of Bar Counsel forwarded you a copy of your former client's grievance and requested a response. You failed to respond, which is a separate violation of RPC 8.1 (Bar Admission and Disciplinary Matters). The Panel felt that this misconduct warranted suspension. But the Panel considered, as a mitigating factor, that you are already suspended for six-months-and-one-day for similar misconduct during substantially the same time period, and therefore, it expects that you will be required to account for this misconduct at any reinstatement hearing held in the future.

Accordingly, you are hereby REPRIMANDED for violating RPC 1.5 (Fees), RPC 1.15 (Safekeeping of Property), RPC 1.16 (Declining or Terminating Representation), and RPC 8.1(b) (Bar Admissions and Disciplinary Matters). The Panel instructed that in addition to this Letter of Reprimand, you must return the $5,000 to your former client within 30 days of the formal issuance of this Letter of Reprimand. I 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.

TIPS FROM THE OFFICE OF BAR COUNSEL

BY JASON DWORIN, ESQ., ASSISTANT BAR COUNSEL

I have to admit when I was asked to write an article about potential pitfalls when lawyers use social media I was a bit surprised, as I am most definitely a luddite concerning such things. I do have a Facebook account, but it mostly consists of a picture of my dog (which, by the way, garnered a bunch of "likes").

With that said, lawyers should be aware of potential problems when they engage in social media. I will try to touch on some of those issues, though this list will certainly not be all-inclusive. One thing that absolutely bears mentioning is that Rule of Professional Conduct 7.1 (Communications Concerning a Lawyer's Services) prohibits a lawyer from making "false or misleading" communications about the lawyer or the lawyer's services. As such, it would be improper for an attorney to post something that is patently untrue on his or her social media site.

Indeed, many states have taken the position that a lawyer's website (including social media) is subject to the traditional rules of lawyer advertising, and in Nevada those rules include not making false or misleading posts.

Another possible problem lies with Rule of Professional Conduct 3.6 (Trial Publicity). Even someone such as I, who does not use social media, know plenty of attorneys (and others) who post updates about every event in their life no matter how insignificant it might seem. It is not a stretch to imagine that, after a hard day of trial, someone might come home and update their Facebook, lamenting about the conduct of opposing counsel or throwing shade at a judge who made an adverse ruling.

While the posting attorney may think this is a harmless way to let off steam, it may become a problem, since RPC 3.6 prohibits making "an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter."

Social media can be a great way to keep in contact with your friends, family and peers, but we must be cognizant that posts can and do go viral, and sometimes that bell cannot be un-rung. Understanding these issues can keep you from violating any Rules of Professional Conduct while still enabling you to post pictures of your favorite pet.