

Bar Counsel Report

In Re: KERRY P. FAUGHNAN
Bar No.: 12204
Case No.: 85933
Filed: 02/16/2023

ORDER IMPOSING TEMPORARY SUSPENSION AND REFERRING ATTORNEY TO DISCIPLINARY BOARD

Bar counsel has filed a petition under SCR 111(4) informing this court that attorney Kerry P. Faughnan has been convicted of conspiracy to commit theft, a gross misdemeanor in violation of NRS 205.0832(1)(a) and NRS 199.480(3)(g). Faughnan self-reported the conviction as required by SCR 111(2).

When a petition filed under SCR 111(4) establishes that an attorney has been convicted of a “serious crime,” this court is required to suspend the attorney pending a disciplinary proceeding and refer the attorney to the appropriate disciplinary board.¹ SCR 111(7) (“Upon the filing with the supreme court of a petition with a certified copy of proof of the conviction, demonstrating that an attorney has been convicted of a serious crime, the court shall enter an order suspending the attorney ... pending final disposition of a disciplinary proceeding ...”); SCR 111(8) (“Upon receipt of a petition filed under subsection 4 of this rule, demonstrating that an attorney has been convicted of a serious crime, the supreme court shall, in addition to suspending the attorney in accordance with the provisions of subsection 7 of this rule, refer the matter to the appropriate disciplinary board ...”). The documents included with the petition filed in this matter establish that Faughnan has been convicted of a “serious crime.” See SCR 111(6) (providing that “serious crime” includes any non-felony offense “that adversely reflects on the attorney’s fitness to practice law” or involves certain enumerated conduct including theft or “an attempt or a conspiracy or solicitation of another to commit a ‘serious crime’”).

Accordingly, we suspend attorney Kerry P. Faughnan from the practice of law pending a disciplinary proceeding and refer him to the Southern Nevada Disciplinary Board for a hearing to determine “the extent of the discipline to be imposed.” SCR 111(8).

It is so ORDERED.²

In Re: CHRISTOPHER M. HENDERSON
Bar No.: 10078
Case No.: 85991
Filed: 02/17/2023

ORDER IMPOSING TEMPORARY SUSPENSION AND REFERRING ATTORNEY TO DISCIPLINARY BOARD

Bar counsel has filed a petition under SCR 111(4) informing this court that attorney Christopher Henderson

has been convicted of assault with a deadly weapon, a felony in violation of NRS 200.471. Henderson self-reported the conviction as required by SCR 111(2).

When a petition filed under SCR 111(4) establishes that an attorney has been convicted of a “serious crime,” this court is required to suspend the attorney pending a disciplinary proceeding and refer the attorney to the appropriate disciplinary board. SCR 111(7) (“Upon the filing with the supreme court of a petition with a certified copy of proof of the conviction, demonstrating that an attorney has been convicted of a serious crime, the court shall enter an order suspending the attorney ... pending final disposition of a disciplinary proceeding ...”); SCR 111(8) (“Upon receipt of a petition filed under subsection 4 of this rule, demonstrating that an attorney has been convicted of a serious crime, the supreme court shall, in addition to suspending the attorney in accordance with the provisions of subsection 7 of this rule, refer the matter to the appropriate disciplinary board ...”). The documents included with the petition filed in this matter establish that Henderson has been convicted of a “serious crime.” See SCR 111(6) (providing that “serious crime” includes any felony). Thus, Henderson’s interim suspension and referral for formal discipline follow automatically under SCR 111(7) and (8).

This court, however, may stay an interim suspension required under SCR 111(7) upon a showing of good cause. See *In re Discipline of Treffinger*, 133 Nev. 153, 157-58, 393 P.3d 1084, 1088 (2017). In an opposition to the petition filed in this matter, Henderson asserts there is good cause to stay any interim suspension otherwise required by SCR 111(7). We disagree. First, the circumstances of Henderson’s offense are serious—he has been convicted of a category B felony involving the threat of violence with the use of a deadly weapon. Second, unlike in *Treffinger* where the attorney had been placed in a diversion program that could result in dismissal of the criminal charges such that he would avoid a final judgment of conviction, here a final judgment of conviction has been entered. Although the plea agreement provides that the charge will be reduced to a gross misdemeanor upon Henderson’s successful completion of probation, he will still have a conviction. Finally, Henderson has been on probation for only a short period of time. Although the information provided to this court shows he has been compliant, we believe more time under supervision is needed to support a showing of good cause for a stay. Given these circumstances, we decline to stay the interim suspension required under SCR 111(7) at this time.

As required by SCR 111(7) and (8), we suspend attorney Christopher Henderson from the practice of law pending a disciplinary proceeding and refer him to the Southern Nevada Disciplinary Board for a hearing to determine “the extent of the discipline to be imposed.” SCR 111(8).

It is so ORDERED.³

In Re: CHRISTINE OWEN
Bar No.: 9141
Case No.: 85852
Filed: 02/17/023

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 Christine Owen. Under the agreement, Owen admitted to violating RPC 1.15 (safekeeping property) and SCR 78 (maintenance of trust funds). She agreed to a six-month-and-one-day suspension, stayed for one year subject to certain conditions.

Owen has admitted to the facts and violations as part of her guilty plea agreement. The record therefore establishes that Owen violated the above-listed rules by failing to keep client ledgers and, through poor accounting, failing to properly keep safe approximately \$40,000 of her clients' funds. However, the record also demonstrates that Owen has repaid all of the missing client funds.

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., Adv. Op. 59, 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).

Owen admitted to knowingly violating a duty owed to her clients (safekeeping property). Her clients were injured when their funds were not timely provided to them or their lienholders. The baseline sanction for such misconduct, before considering the aggravating or mitigating circumstances, is suspension. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.12 (Am. Bar Ass'n 2017) (providing that suspension is 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"). The record supports the panel's findings of one aggravating circumstance (substantial experience in the practice of law) and three mitigating circumstances (absence of prior disciplinary record, timely good faith effort to make restitution, and cooperative attitude towards the disciplinary proceeding). Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Christine Owen from the practice of law for six months and one day from the date of this order, stayed for one year subject to the conditions outlined in the conditional guilty plea agreement. Those conditions include the requirement that Owen submit monthly trust account reconciliation reports, review the Nevada State Bar's "Trust Accounting Manual," and engage in no conduct involving client funds that results in the issuance of a Letter of Reprimand or the filing of a Complaint. Lastly, Owen shall pay the 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.

In Re: CARRIE E. HURTIK
Bar No.: 7028
Case No.: 85714
Filed: 02/17/023

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation to approve a conditional guilty plea agreement pursuant to SCR 113 in exchange for a stated form of discipline for attorney Carrie E. Hurtik. Under the agreement, Hurtik admitted to violating RPC 1.3 (diligence), 1.4 (communication), 1.5 (fees), and 1.15 (safekeeping property). She agreed to a two-year suspension stayed subject to conditions during a corresponding probationary period.

Hurtik admitted to the facts and violations as part of her guilty plea agreement. Thus, the record establishes that Hurtik violated the above-listed rules by delaying distribution of funds to clients and their lienholders; failing to timely communicate with clients about client fund distributions and withholdings or respond to clients' requests for such information; failing to provide clients with distribution statements; withdrawing client funds in probate matters before court approval; dealing improperly with client property by comingling client funds with firm operating funds, including issuing checks from her client trust account to the operating account without identifying the purpose for the withdrawal, but later inappropriately using those funds for payroll, personal expenses, office expenses, and loans; and failing to keep client and trust account ledgers and maintain adequate accounting practices, which led to her trust account being out of balance over a four-year period.

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

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Nev., Adv. Op. 59, 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).

Hurtik admitted to knowingly engaging in conduct that violated duties owed to her clients and the legal system. Hurtik’s misconduct harmed her clients who did not receive timely distributions of funds owed to them and their lienholders. The baseline sanction before considering aggravating or mitigating factors is suspension. See Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.12 (providing that suspension is appropriate when “a lawyer knows or should know he is dealing improperly with client property and causes injury or potential injury to a client”), and Standard 7.2 (“Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.”).

The record supports the panel’s finding that Hurtik’s substantial experience in the practice of law is the sole aggravating factor in this matter. The record likewise supports the four mitigating factors found by the panel. First, Hurtik, after more than 23 years of practice, has no prior disciplinary record. Second, Hurtik dealt with personal or emotional problems and numerous significant hardships between 2017 and 2021, including serving as a live-in caretaker for her parents who suffered serious health issues. Third, Hurtik maintained a cooperative attitude toward the proceedings and made significant efforts to bring her trust account into balance by hiring an outside accountant and repaying most of the funds she owed to clients. Fourth, the record supports the panel’s finding as to Hurtik’s character and reputation as a lawyer and member of the community, including her pastor’s testimony and a letter from the client who filed the grievance against her. While knowingly failing to properly preserve client property often corresponds with an actual suspension as discipline, considering all four factors and the safeguard conditions by which Hurtik must abide during her probation, we conclude that the agreed-upon discipline is appropriate to protect the public, the courts, and the legal profession here.

Accordingly, we hereby suspend attorney Carrie Hurtik from the practice of law for two years, stayed subject to an equal-length probation to which the following conditions apply as set forth more specifically in the guilty plea agreement: Hurtik must (1) create and maintain individual client ledgers; (2) open individual client accounts consistent with the parameters in the guilty plea agreement; (3) maintain an IOLTA ledger; (4) reconcile her IOLTA account monthly; (5) limit

attorney fee withdrawals and manage disbursements as stated in the plea agreement; (6) hire a third-party CPA-licensed or otherwise qualified accountant to review her trust accounting, monitor her compliance with the stay conditions, and submit monthly reports to the State Bar; (7) and pay \$132,355.27 plus interest in restitution to her clients if she has not already done so. Finally, Hurtik must pay the 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.

In Re: LEILA L. HALE
Bar No.: 7368
Case No.: 84918
Filed: 02/17/023

ORDER OF PUBLIC REPRIMAND

In this matter, the State Bar challenges a Southern Nevada Disciplinary Board decision to issue attorney Leila L. Hale a letter of caution for two violations of RPC 1.15(e) (safekeeping property) and one violation of RPC 1.16(d) (declining or terminating representation). The State Bar also challenges the hearing panel’s conclusions that Hale did not violate RPC 1.2 (scope of representation and allocation of authority between client and lawyer) or RPC 1.5 (unreasonable fee). We agree with the violations found by the hearing panel but conclude that a public reprimand is the appropriate discipline in this case after considering the relevant factors. See SCR 105(3)(b) (addressing this court’s review of decisions of a State Bar hearing panel).

The State Bar has the burden of showing by clear and convincing evidence that Hale committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). We defer to the panel’s factual findings that are supported by substantial evidence and are not clearly erroneous. SCR 105(3)(b); *In re Discipline of Colin*, 135 Nev. 325, 330, 448 P.3d 556, 560 (2019).

The State Bar argues that Hale violated RPC 1.2(a), which provides that “[a] lawyer shall abide by a client’s decision whether to settle a matter,” because her retainer agreement included language that the “Client agrees to accept a reasonable settlement offer if recommended by the Firm.” But substantial evidence supports the hearing panel’s findings that Hale did not use this provision to force a settlement on the client identified in the underlying grievance. Indeed, the record contains no evidence that the client felt pressured to accept the settlement because of the retainer agreement’s language. We therefore agree with the hearing panel that Hale did not violate RPC 1.2.⁴

The State Bar also argues that Hale violated RPC 1.5(a), which prohibits attorneys from charging or collecting an unreasonable fee, based on language in her

retainer agreement regarding payment of fees following the client's termination of Hale. The record, however, supports the hearing panel's conclusion that Hale did not use that provision to collect an unreasonable fee in the matter at issue. We therefore agree with the hearing panel that Hale did not violate RPC 1.5.

The State Bar also challenges the hearing panel's decision that a letter of reprimand is the appropriate discipline based on Hale's violations of RPC 1.15 (safekeeping property) and RPC 1.16 (declining or terminating representation) and instead seeks a suspension. To determine the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating or mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008). The panel's recommendation is persuasive, but we review the disciplinary recommendation de novo. SCR 105(3)(b); *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). When multiple violations are at issue, "[t]he ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct." Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, 452 (Am. Bar Ass'n 2018) (ABA Standards).

Hale's violations of RPC 1.15 are based on her prematurely taking attorney fees from client funds held in trust and failing to promptly disburse the remaining funds held in trust after negotiating all the relevant medical liens. The violation of RPC 1.16 is based on Hale's continued failure to disburse remaining settlement funds after the client terminated her. The panel concluded that Hale acted knowingly, but that she caused little to no actual or potential harm. It found, based on the parties' stipulation, two aggravating factors (prior disciplinary offenses and substantial experience in the practice of law) and four mitigating factors (full and free disclosure to disciplinary authority or cooperative attitude toward disciplinary proceeding, character or reputation, imposition of other penalties or sanctions, and remorse). The panel then applied ABA Standard 4.14 which provides that "[a]dmonition is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client"—to determine that a letter of caution, Nevada's equivalent to an admonition, was appropriate. ABA Standards, Standard 4.14.

We conclude that the most serious violation is Hale's failure to safekeep property, a violation of RPC 1.15(a). We further conclude that she acted negligently, rather than with knowledge, and that her actions violated duties owed to her clients and to the profession. We agree with the State Bar that Hale caused actual injury with the potential for further injury because her misconduct deprived her client of access to and use of funds to which the client was entitled for more than two years. See, e.g., *In re Obert*, 282 P.3d 825, 842-43 (Or. 2012) (concluding that the failure to disburse funds

injured the client by causing "anxiety and aggravation" as well as "actual, financial harm"). For negligent handling of a client's property causing injury or potential injury, the baseline discipline is a public reprimand. See ABA Standard 4.13 (recommending a reprimand when an attorney acts negligently in safekeeping a client's property and causes injury or potential injury). The aggravating and mitigating factors do not warrant deviating from that baseline.⁵

Accordingly, we hereby publicly reprimand attorney Leila L. Hale for violating RPC 1.15 (safekeeping property) and RPC 1.16 (terminating or declining representation) by failing to promptly disburse client funds. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

In Re: BRIAN D. GREEN, SR.
Bar No.: 4621
Case No.: SBN22-00260
Filed: 03/01/2023

PUBLIC REPRIMAND

To Brian D. Green, Sr.:

You were appointed to handle the appeal of an incarcerated person conviction of a crime before the Nevada Supreme Court, identified by Case No. 83666. You appeared in the appellate matter and filed a Case Statement on October 11, 2021.

The Opening Brief for your client's case was due on or about February 11, 2022. You were aware of the deadline, however, you failed to file the Opening Brief by the initial deadline. You did receive one telephonic fourteen-day extension of time to file the brief, however you still didn't file it by the extended deadline.

On March 8, 2022, the Nevada Supreme Court issued a Notice to File Opening Brief and Appendix. The notice required the documents to be filed within seven days. You were aware of the new deadline to file the Opening Brief, however you again failed to file the documents by the deadline.

Therefore, on April 8, 2022, the Court issued an Order conditionally imposing sanctions and setting a new deadline for filing the Opening Brief and Appendix. If the documents were filed within 14 days of the Order, then the sanctions would be waived. You were aware of the final deadline to file the Opening Brief. Again, you failed to file the Opening Brief or Appendix by the Nevada Supreme Court's new deadline- April 22, 2022—or otherwise.

You have represented that you started the Opening Brief but could not finish it or file a motion to request an extension of time to file the brief because of increasing severity of your cardiopulmonary disease. However, you did not attempt to withdraw from the representation because of your health issues.

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On May 26, 2022, the Nevada Supreme Court issued an Order Removing Counsel, Referring Counsel to State Bar of Nevada for Investigation, Remanding for Appointment of Counsel, and Suspending Briefing. The Opening Brief was filed on September 14, 2022, by appointed successor counsel.

Your failure to file the Opening Brief delayed consideration of your client's appeal by approximately six months.

Violations of the Rules of Professional Conduct

You had a duty to diligently and promptly represent your client in her criminal appellate matter, pursuant to RPC 1.3 (Diligence). You knowingly violated RPC 1.3 (Diligence) when you failed to timely file the Opening Brief in this matter, despite multiple directives from the Nevada Supreme Court.

RPC 3.4 (Fairness to Opposing Party and Counsel) prohibits a lawyer from "knowingly disobey[ing] an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." You knowingly violated RPC 3.4 (Fairness to Opposing Party and Counsel) when you failed to file the appellate brief after the Court issued multiple separate order [sic] directing you to do so.

RPC 1.16 (Declining or Terminating Representation) requires that you withdraw from a representation, seeking court permission if necessary, if you are physically unable to complete the representation. You knowingly violated RPC 1.16 (Declining or Terminating Representation) when you failed to attempt to withdraw from the representation when your health issues rendered you unable to complete the representation.

Your client, the efficiency of the judiciary and the integrity of the profession was injured by your misconduct, particularly since the Court removed you as counsel in the matter and new counsel had to be appointed.

Application of ABA Standards for Imposing Lawyer Sanctions

Pursuant to Standard 4.42 of the ABA Standards for Imposing Lawyer Sanctions, the appropriate baseline sanction for Respondent's misconduct is suspension.

The Panel has considered the aggravating factor of your substantial experience in the practice of law (SCR 102.5(1)(i)) and the mitigating factors of (i) your absence of prior relevant discipline (SCR 102.5(2)(a)), (ii) the absence of dishonest or selfish motive (SCR 102.5(2)(b)), (iii) your personal or emotional problems (SCR 102.5(2)(c)), (iv) cooperative attitude towards the disciplinary proceeding (SCR 102.5(2)(e)), and (v) your expressed remorse for your misconduct (SCR 102.5(2)(m)).

In light of the mitigating factors it is appropriate to deviate downward from the baseline sanction of suspension to the sanction of a Public Reprimand and the imposition of conditions.

Therefore, you are hereby PUBLICLY REPRIMANDED for violation of Rule of Professional Conduct ("RPC") 1.3 (Diligence), RPC 3.4 (Opposing Party and Counsel), and RPC 1.16 (Declining or Terminating Representation), required to designate another attorney, with whom you maintain contact for the next two years, who can inform clients and courts if your physical health prevents you from representing a client, and required to pay SCR 120 costs of \$1,500 plus hard costs of the proceeding.

In Re: JORGE G. CORRAL
Bar No.: 7313
Case No.: 86193
Filed: 03/07/2023

ORDER TRANSFERRING ATTORNEY TO DISABILITY INACTIVE

The State Bar and attorney Jorge Corral have filed a joint petition asking this court to transfer Corral to disability inactive status because he currently is incapable of continuing the practice of law or defending himself in a pending disciplinary proceeding due to a mental health condition for which he is receiving treatment. Having reviewed the petition and supporting documentation, we conclude that Corral is incapacitated for the purpose of practicing law or defending himself in a pending disciplinary proceeding.

Accordingly, we transfer attorney Jorge Corral to disability inactive status commencing from the date of this order. See SCR 117(2). Any pending disciplinary proceeding or investigation against Corral is suspended. *Id.* Corral must comply with SCR 117(4) in seeking reinstatement and may not resume active status until he has been reinstated by order of this court. The parties shall comply with SCR 115 and SCR 121.1. See SCR 117(7).

It is so ORDERED.⁶

In Re: SEAN D. LYTTLE
Bar No.: 11640
Case No.: OBC21-0355
Filed: 03/09/2023

LETTER OF REPRIMAND

To Sean D. Lyttle:

On February 7, 2023, a Formal Hearing Panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. Based on the evidence presented and the Conditional Guilty Plea Agreement presented to the Panel, the Panel concluded that you

violated the Rules of Professional Conduct (“RPC”) and should be issued a Letter of Reprimand. This letter shall constitute a delivery of that reprimand.

Natalie White hired you to represent her in a wrongful termination matter. On November 17, 2014, you filed a Complaint on your client’s behalf. Opposing counsel filed a Motion to Dismiss due to deficiencies in the pleading. The court granted the motion. You filed a second Complaint correcting the original deficiencies in the Complaint. Opposing counsel filed another Motion to Dismiss and pointed out that you failed to serve the named defendants. The Court granted the second Motion to Dismiss in its entirety. You filed a notice of appeal with the Nevada Supreme Court (hereinafter “NSC”) but failed to pay the filing fee. The NSC issued a notice that it would take no action until you paid the filing fee. You paid the fee but failed to file a docketing statement. The NSC entered notice to file a docketing statement. You failed to file the appropriate forms and the NSC entered an order imposing conditional sanctions. You failed to correct the forms and the NSC imposed the sanctions. The NSC also ordered you to file a transcript request form and to file an opening brief and appendix within the appropriate time frames. You complied with the court’s order; however, the court entered an order striking the opening brief and appendix because the appendix was not paginated correctly, and the brief did not cite to the pages of the Appendix. Opposing counsel filed a Motion to Dismiss the appeal and for sanctions. The NSC entered an order dismissing the appeal and referring counsel to the State Bar of Nevada for Investigation and Granting in Part Motion for Sanctions. The State Bar of Nevada gave you an opportunity to participate in a diversion program, you failed to complete the Diversion Program.

RPC 1.1 (Competence) states, “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.” You violated RPC 1.1 (Competence) by failing to timely file the correct documents on your client’s behalf and by failing to comply with Nevada Rules of Appellate Procedure and Nevada Supreme Court Orders.

Your failure to review and follow procedural rules also violated RPC 1.3. RPC 1.3 (Diligence) states, “A lawyer shall act with reasonable diligence and promptness in representing a client.” You failed to diligently pursue the appeal. Your lack of diligence also violated RPC 3.2 (Expediting Litigation), which states in pertinent part, “A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.” Your failure to correct documents on your client’s behalf and failure to comply with NRAP and Nevada Supreme Court Orders caused a substantial delay in litigation and ultimately dismissal of the matter. This is also a violation of RPC 8.4(d) (Misconduct), which states in pertinent part, “It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.”

Your failure to comply with NRAP and Nevada Supreme Court Orders also caused unnecessary burden and delay to the NSC.

RPC 1.4 (Communication) states, in pertinent part, that a lawyer shall “[k]eep the client reasonably informed about the status of a matter” and “promptly comply with reasonable requests for information.” During your representation of Ms. White, you failed to communicate with your client and keep her updated about her appeal. You also failed to advise your client that the NSC had dismissed the matter. This caused your client needless worry and frustration.

Under ABA Standard 4.42, suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury to a client.

Under ABA Standard 6.22, suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule and causes injury or potential injury to a client or a party or causes interference or potential interference with a legal proceeding. However, given mitigating circumstances outlined in SCR 102, a downward deviation is appropriate.

Accordingly, you are hereby REPRIMANDED for violating RPC 1.1 (Competence), RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 3.2 (Expediting Litigation), and RPC 8.4 (Misconduct). In addition, pursuant to Supreme Court Rule 120(3), you shall remit to the State Bar of Nevada the amount of \$1,500 within 30 days of this Letter. 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.

ENDNOTES:

1. For purposes of SCR 111, a “conviction” includes a guilty plea “regardless of ... whether a final judgment of conviction has been entered.” SCR 111(1).
2. This order constitutes our final disposition of the matter. Any further proceedings involving Faughnan shall be docketed as a new matter.
3. This order constitutes our final disposition of this matter. Any further proceedings involving Henderson shall be docketed as a new matter.
4. Hale argues, as to both RPC 1.2 and RPC 1.5, that she lacked the requisite mens rea. Neither rule contains a scienter requirement. Compare RPC 1.2(a) (“A lawyer shall abide by a client’s decision whether to settle a matter.”), and RPC 1.5(a) (providing that “[a] lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses”), with RPC 3.3 (prohibiting an attorney from “knowingly” taking certain actions).
5. We decline the State Bar’s invitation to find that Hale acted with a dishonest or selfish motive as the State Bar presented no evidence regarding this aggravating factor below.
6. This order constitutes our final disposition of this matter. Consistent with SCR 121(7), this order is public but all other proceedings and documents in this matter shall remain confidential.

TIP

FROM THE BAR COUNSEL

Success Through Civility

Any fan of the Godfather movies is familiar with Tom Hagen, the consigliere to the Corleone family played by Robert Duvall. Hagen is a tough negotiator and an adept legal strategist. Don Vito Corleone employed Hagen because he said, “a lawyer could steal more than a phalanx of gunmen.” Hagen was both Vito’s lawyer and his most trusted advisor. Hagen broke every rule in the book and should have been disbarred. But Hagen is an unexpected paradox. Hagen was more valuable to Don Vito than others in the family—like the violent and rash oldest brother, Sonny Corleone—because Hagen demonstrated civility and respect toward others. Hagen’s civility and diplomacy built alliances and negotiated deals that made the Corleone family the most powerful crime family in America.

Like Hagen, we must remember that civility is essential to success. Civility achieves better outcomes for our clients while maintaining the integrity of the legal system. Here are six tips for success through civility:

1. Maintain a Professional Demeanor:

Maintain a professional demeanor in all interactions with opposing counsel. Avoid name-calling, personal attacks, and other behavior that would increase tension and diminish your reputation.

2. Communicate Respect: When communicating with opposing counsel, whether in person or in writing, always show respect. Use courteous language. Avoid sarcasm, condescension, passive-aggressive tones, and other forms of disrespectful communication that may cause offense or that opposing counsel might misinterpret.

3. Listen with Compassion: Listening to opposing counsel’s arguments can help you understand their perspective, identify areas of agreement, and find opportunities for compromise. This understanding can facilitate negotiations and lead to a more favorable outcome for your client.

4. Avoid Unnecessary Delays: Delays from frivolous motions, excessive discovery requests, or unreasonable extensions will cost your client, hurt your client’s case, and diminish your reputation. Avoid delay tactics. Instead resolve disputes in a timely and efficient manner.

5. Be Honest and Transparent: Honesty and transparency are essential qualities for lawyers. Avoid making false statements, concealing information, or engaging in any form of unethical behavior. Build a relationship of trust with others in the legal profession, and your reputation will win cases before they start.

6. Resolve Disputes: Adversarial litigation is sometimes necessary, but amicable resolutions often produce the best outcomes for both parties. Find common ground with opposing counsel. Explore alternative dispute resolution, such as mediation or arbitration. Avoid lengthy and costly litigation if you can.

Civility is not only honorable and praiseworthy, but it will also benefit your clients and professional reputation. Follow the tips above to foster professionalism, build trust, and achieve better outcomes for your clients.

