

SUPREME COURT OF NEVADA

In Re: Anan Mark Eldredge
Bar No.: 9799
Docket No.: 63375
Filed: September 19, 2015

ORDER OF DISBARMENT

Attorney ordered disbarred following affirmation of Southern Nevada Disciplinary Board decision that attorney violated multiple Rules of Professional Conduct, largely related to handling of client matters resulting in substantial financial harm to clients.

This is an automatic review, pursuant to SCR 105(3)(b), of a Southern Nevada Disciplinary Board hearing panel's findings that attorney Anan Mark Eldredge violated multiple Rules of Professional Conduct (RPC), and its recommendation that he be disbarred.¹

The state bar filed a complaint containing 41 counts of misconduct related to Eldredge's handling of client matters in his debt-relief law firm, resulting in substantial financial harm to multiple clients.

The complaint alleged violations of the following rules of professional conduct: RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.6 (confidentiality of information), RPC 1.15 (safekeeping property), RPC 1.16 (declining or terminating representation), RPC 5.3 (supervision of non-lawyer assistants), RPC 5.4 (professional independence of a lawyer), RPC 5.5 (unauthorized practice of law), RPC 7.1 (communications concerning a lawyer's services), RPC 8.1 (bar admission and disciplinary matters) and RPC 8.4 (misconduct).

Eldredge failed to respond to the complaint, and the panel proceeded on a default basis with the charges deemed admitted (SCR 105(2)). Eldredge was served with the complaint and notice of the hearing date and time, but did not appear at the hearing. The panel concluded

that counts seven through 41 were established by clear and convincing evidence.²

The court's automatic review of a disciplinary panel's findings and recommendations is de novo. SCR 105(3)(b); *In re Discipline of Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992). "Although the recommendations of the disciplinary panel are persuasive, this court is not bound by the panel's findings and recommendation, and must examine the record anew and exercise independent judgment." *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). The state bar has the burden of showing, by clear and convincing evidence that Eldredge committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

After reviewing the record of the disciplinary proceedings in this matter, the court concluded that clear and convincing evidence supports the panel's findings that Eldredge committed the violations alleged in counts seven through 41 of the complaint.

The court further concluded that the panel's recommended discipline was appropriate, considering the aggravating factors (dishonest or selfish motive, pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding, refusal to acknowledge the wrongful nature of conduct, vulnerability of the victims and indifference to making restitution), SCR 102.5(1), and mitigating factors (absence of prior disciplinary record and inexperience in the practice of law) identified by the panel. SCR 102.5(2). While Eldredge challenges the panel's denial of his request for a continuance of the formal hearing and his motion for relief under NRCP 59, NRCP 60, and SCR 105(2), we conclude that those decisions were not improper.

Accordingly, attorney Anan Mark Eldredge is hereby irrevocably disbarred. SCR 102(1).

Additionally, Eldredge shall pay the costs of the disciplinary proceeding within 30 days of receipt of the state bar's memorandum of costs, see SCR 120, and shall comply with SCR 115. The state bar shall comply with SCR 121.1.

It is so ORDERED.

In re: Gary L. Myers
Bar No. : 3120.
Docket No.: 67694
Filed: September 29, 2015

ORDER OF SUSPENSION

Attorney suspended for four years, retroactive to 2012 temporary suspension, following admissions that he violated rules regarding diligence, communication, safekeeping property, misconduct and declining or terminating representation.

This is an automatic review, pursuant to SCR 105(3)(b), of a Southern Nevada Disciplinary Board hearing panel's findings of fact, conclusions of law and decision, in which the panel recommended that attorney Gary Myers be suspended from the practice of law for four years, retroactive to the court's order of temporary suspension on February 24, 2012, subject to conditions. See *In re Discipline of Myers*, Docket No. 59866 (Order of Temporary Suspension, February 24, 2012). Additionally, the panel recommended that Myers pay the costs of the disciplinary proceedings.

Myers admitted that he violated RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property) and RPC 8.4 (misconduct) with regard to all three counts in the complaint, as well as RPC 1.16 (declining or terminating representation) in the third count.

Based on these violations, the panel recommended that Myers be suspended from the practice of law for four years, retroactive to the order of temporary suspension, with the following conditions:

- a. Myers shall report his place of employment to the state bar;
- b. When Myers obtains a job, he shall make a good faith effort to pay restitution; and
- c. Myers shall continue with treatment, either in group therapy, in a church or with a healthcare provider.

The panel also requested that any reinstatement panel consider imposing the following conditions:

- a. Myers should not practice law out of his house, but from a law office;

- b. Myers should obtain a mentor;
- c. Myers should not have access to trust account funds for a determined period of time;
- d. Myers should have a bookkeeper or accountant to maintain his account; and
- e. Myers should make a good faith effort to pay restitution owed. However, full repayment of restitution is not a prerequisite to filing a petition for reinstatement.

Finally, the panel recommended that Myers pay the actual costs of the disciplinary proceedings, excluding Bar Counsel and staff salaries, within 30 days of the receipt of a memorandum of costs from the state bar.

This court's automatic review of a disciplinary panel's findings and recommendations is de novo, SCR 105(3)(b); *In re Discipline of Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992), and therefore "we must examine the record anew and exercise independent judgment," *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001).

Although the court was not bound by the disciplinary panel's recommendations, it found those recommendations to be persuasive. The state bar has the burden of showing by clear and convincing evidence that Myers committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, gas P.2d 709, 715 (1995).

After reviewing the record, the court concluded that clear and convincing evidence supports the panel's findings of misconduct. The court further concluded that the panel's recommended discipline is appropriate and approved the recommendation with one exception: payment of restitution in full shall be a condition of reinstatement.

Accordingly, the court suspended Myers from the practice of law for four years, retroactive to February 24, 2012, the date of his temporary suspension. Additionally, during his suspension Myers shall comply with the conditions set forth by the panel, as described above. Myers shall pay restitution in full as a condition of reinstatement. Finally, Myers shall pay the costs associated with the disciplinary proceedings within 30 days of the receipt of a memorandum of costs from the state bar. Myers shall comply with SCR

115 and SCR 116. The state bar shall comply with SCR 121.1. It is so ORDERED.

**In Re: Scott M. Cantor,
Bar No.: 1713.
Docket No.: 68044
Filed: September 29, 2015**

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

Court approved conditional guilty plea of stayed suspension of six months and one day, with conditions, including one year probation, for failure to communicate with clients and expedite their cases. Attorney also failed to respond to the state bar.

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 Scott Cantor. Under the agreement, Cantor admitted to violations of RPC 1.1 (competence), RPC 1.2 (scope of representation), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 3.2 (expediting litigation), RPC 3.4 (fairness to opposing party and counsel), RPC 8.1 (bar admission and disciplinary matters) and RPC 8.4 (misconduct).

The agreement provides for a stayed six-month-and-one-day suspension, with the following conditions:

1. Probation for one year (with quarterly reports submitted to Bar Counsel), during which time Cantor must stay out of trouble and not receive any grievances that result in actual discipline which would be considered a violation of probation. Probation is to start the day the plea is accepted by the panel;
2. Cantor shall obtain a mentor approved by Bar Counsel to monitor his practice. The mentor shall be a Nevada licensed attorney in good standing. The mentor will monitor Cantor's active cases and ensure that his cases are properly filed and calendared and that

his clients are advised. The mentor will also ensure that Cantor maintains a proper accounting system, review the trust account, and submit a quarterly report to Bar Counsel about Cantor's progress and any issues that may have developed;

3. The mentoring agreement shall be executed by Cantor and the mentor within 30 days of the hearing;
4. Cantor shall submit a quarterly report to Bar Counsel, providing an update as to his place of employment, area(s) of practice, his caseload and any issues that may have developed; and
5. Cantor shall pay the actual costs of the disciplinary proceedings, excluding Bar Counsel and staff salaries, within one year.

Based on the court's review of the record, it concluded that the guilty plea agreement should be approved. See SCR 113(1). The court imposed a stayed sixth-month-and-one-day suspension. Additionally, Cantor must comply with all of the conditions in the plea agreement, as outlined above.

Cantor and the state bar shall comply with the applicable provisions of SCR 121.1, and SCR 115 and 116, if necessary.

It is so ORDERED.³

DOUGLAS, J., dissenting: would reject the plea.

**In re: Judith H. Braecklein
Bar No.: 3322
Docket No.: 66866
Filed: September 29, 2015**

ORDER OF SUSPENSION

Attorney suspended for one year for misappropriation and failure to respond to the state bar.

This is an automatic review pursuant to SCR 105(3)(b), of a Southern Nevada Disciplinary Board hearing panel's findings of fact, conclusions of law and recommendation for attorney discipline, based on its finding that attorney Judith H. Braecklein violated several rules of professional conduct.

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The allegations of misconduct arose after the state bar received notification that two checks, written by Braecklein from her IOLTA client trust account, were returned for insufficient funds, and Braecklein failed to timely respond to the state bar's inquiries regarding the overdraft. The panel found by clear and convincing evidence that Braecklein violated RPC 1.15 (safekeeping property - two violations), RPC 8.1 (bar admission and disciplinary matters - one violation), and RPC 8.4 (misconduct - two violations). The panel found the following aggravating factors:

1. Prior disciplinary offenses;
2. A pattern of misconduct;
3. Multiple offenses;
4. Bad faith obstruction of the disciplinary proceeding; and
5. Substantial experience in the practice of law.

The panel found that Braecklein's remorse was a mitigating factor.

The panel recommended that Braecklein be suspended from the practice of law for six months and one day and, as a condition of reinstatement, that Braecklein be required to retake the MPRE and attend at least three hours of CLE, specifically relating to the handling of IOLTA trust accounts. Finally, the panel recommended that Braecklein be required to pay the costs associated with the proceedings, pursuant to SCR 120.

The court's automatic review of a disciplinary panel's findings and recommendations is de novo, SCR 105(3)(b); *In re Discipline of Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992), and therefore "we must examine the record anew and exercise independent judgment," *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). Although the court was not bound by the disciplinary panel's recommendations, it found the recommendations to be persuasive. *Id.*

The state bar has the burden of showing by clear and convincing evidence that Braecklein committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

In determining the appropriate discipline, the court considers 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, 1077-78 (2008).

While the court concluded that clear and convincing evidence supports the panel's findings of misconduct, the court did not agree that the panel's recommended discipline is commensurate with the misconduct committed.

Accordingly, the court suspended Judith Braecklein from the practice of law for one year commencing from the date of this order. The court further approved the reinstatement conditions recommended by the hearing panel with the added condition that restitution, if any, be paid in full.

Finally, Braecklein shall pay the costs associated with the disciplinary proceedings within 30 days from her receipt of the state bars bill of costs, see SCR 120, and shall comply with SCR 115 and SCR 116. The state bar shall comply with SCR 121.1.

It is so ORDERED.

In re: Peter C. Nuttall
Bar No.: 10704
Docket No.: 67027
Filed: September 25, 2015

ORDER OF TEMPORARY SUSPENSION

Attorney temporarily suspended following criminal conviction for a DUI and subsequent failure to respond to the Supreme Court.

This is a petition under SCR 111 (4) concerning attorney Peter C. Nuttall, based on his conviction of DUI⁴ and subsequent failure to appear for a scheduled status check and a bench warrant thereafter being issued for his arrest.

After reviewing the petition and supporting documentation, this court entered an order on March 20, 2015, approving the recommendation of a screening panel that this matter proceed to a formal disciplinary hearing and referring the matter to the Southern Nevada Disciplinary Board for the initiation of any further action it deemed warranted. SCR 111(9).

This court's March 20, 2015, order also noted that the crime of

which Nuttall was convicted did not meet the criteria set forth in SCR 111(6), which requires automatic temporary suspension, but instead is governed by SCR 111(9), which provides, in pertinent part:

If the conviction adversely reflects on the attorney's fitness to practice law, the Supreme Court may issue an order to show cause, requiring the attorney to demonstrate why an immediate temporary suspension should not be imposed.

As it appeared that Nuttall's conviction was not for a minor offense and that it adversely reflected on his fitness to practice law, the court directed Nuttall to show cause why he should not be temporarily suspended from the practice of law pending resolution of the formal proceedings.

Nuttall filed an untimely motion to extend the time to respond to the show cause order; on May 8, 2015, the court entered an order denying the motion and directing Nuttall to file his response by May 19, 2015. To date, Nuttall has failed to respond.

In light of the petition and Nuttall's failure to respond, the court concludes that a temporary suspension is warranted. Accordingly, Nuttall is temporarily suspended from the practice of law pending resolution of the formal proceedings of the Southern Nevada Disciplinary Board.

It is so ORDERED.

In re: Jorge L. Sanchez
Bar No.: 10434.
Docket No.: 67182
Filed: September 21, 2015

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

Attorney suspended for five years with conditions for numerous counts of failure to properly represent clients in bankruptcy proceedings, to expedite litigation and respond to the state bar.

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 Jorge L. Sanchez.

Under the agreement, Sanchez admitted to violations of RPC 1.1 (competence - 25 counts), RPC 1.2 (scope of representation and allocation of authority between client and lawyer - two counts), RPC 1.3 (diligence - 26 counts), RPC 1.4 (communication - 27 counts), RPC 1.5 (fees - 25 counts), RPC 1.15 (safekeeping property - 22 counts), RPC 1.16 (declining or terminating representation - 19 counts), RPC 1.17 (sale of law practice - 15 count), RPC 3.2 (expediting litigation - one count), RPC 8.1(b) (bar admission and disciplinary matters - 28 counts) and RPC 8.4 (misconduct - 27 counts).⁵

The agreed-upon discipline provides for a five-year suspension, commencing on December 8, 2014, followed by a three-year probationary period if Sanchez is reinstated to the practice of law. In addition, Sanchez must comply with the following conditions:

- a. Continue his treatment in accordance with Dr. DiTomasso's recommendations dated November 22, 2014;
- b. Obtain and provide bar counsel with an updated evaluation from his current treating physician, who must be approved by the state bar, every three months during the three-year probationary period and follow any amended recommendations contained in the updated evaluation reports;
- c. Abstain from drugs, except as prescribed by his licensed physician and filled by a local pharmacy;⁶
- d. Obtain a mentor approved by the state bar who is responsible for submitting quarterly reports to bar counsel during the three-year probationary period;
- e. Sign a HIPPA authorization to allow bar counsel to obtain any medical reports related to Sanchez's treatment during the three year probationary period so that bar counsel can monitor whether Sanchez is complying with the terms and conditions of the plea agreement;
- f. Submit quarterly reports to bar counsel during the three-year probationary period regarding all trust accounts in Sanchez's name or in the name of any

- g. Meet with his mentor twice a month to discuss his calendar, his workload, his stress levels and how he is managing them, his goals and any other issues pertaining to his legal practice;
- h. Promptly comply with the state bar's requests for information;
- i. Not be convicted of any crime, with the exception of minor traffic infractions that do not involve alcohol or controlled substances;
- j. Retake and successfully pass the Nevada State Bar Examination and MPRE before applying for reinstatement;
- k. Successfully complete a state bar approved CLE course concerning the proper use and maintenance of trust accounts;
- l. Pay all outstanding legal fees to his counsel (Rebecca Miller and William Terry);
- m. Pay the entire restitution amount⁷ or show detailed proof of a good faith effort to consistently comply with the repayment requirement during the full term of his suspension and, if reinstated to the practice of law before restitution is paid in full, pay the remaining amount due during the three year probationary period.

Finally, the agreed-upon discipline requires Sanchez to pay the actual costs of the disciplinary proceeding, excluding Bar Counsel and staff salaries, within 90 days of receipt of the state bar's bill of costs or pursuant to a payment plan approved by the state bar.

Based on the court's review of the record, it concluded that the guilty plea agreement should be approved. See SCR 113(1); see also *In re Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008) (explaining that four factors must be weighed in determining the appropriate discipline: "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").

The court imposed a five-year suspension, with the period of suspension beginning on December 8, 2014. Sanchez shall comply with all conditions, as outlined above, and shall pay the costs of the

disciplinary proceedings (excluding bar counsel and staff salaries) within 90 days or as provided in a payment plan approved by the state bar. SCR 120. Sanchez shall comply with SCR 115 and 116, and the state bar shall comply with SCR 121.1.

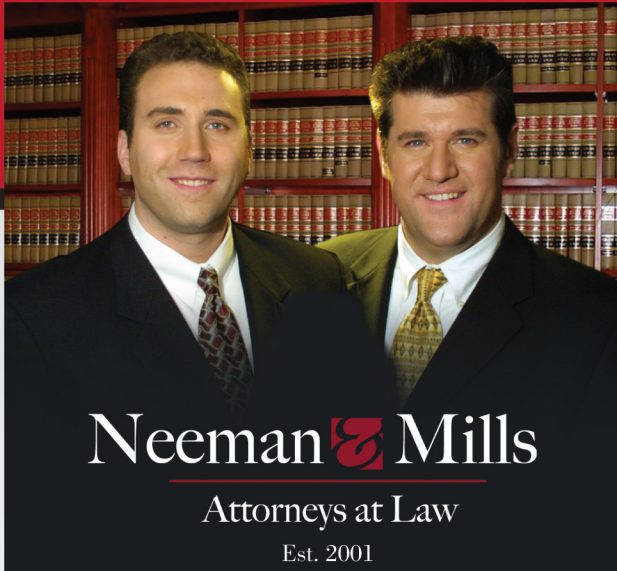
It is so ORDERED.

1. Eldredge has been CLE suspended since April 10, 2014.
2. The panel dismissed counts one through six due to lack of evidence establishing any violation of the Rules of Professional Conduct.
3. The Honorable Nancy M. Saitta, Justice, voluntarily recused herself from participation in the decision of this matter.
4. The documentation supporting the petition indicated that Nuttall entered pleas of nolo contendere in Las Vegas Municipal Court, Clark County, Nevada, to one count of DUI and one count of DUI, subsequent arrest; according to Nuttall, the charges were "resolved as a single DUI conviction."
5. In 2010, Sanchez and the state bar filed a joint petition for an order temporarily suspending Sanchez from the practice of law pending the resolution of the disciplinary proceedings at issue in this case. This court granted the petition. *In re Discipline of Jorge L. Sanchez*, Docket No. 56126 (Order of Temporary Suspension, June 23, 2010), and Sanchez has been suspended from the practice of law since then. He was ordered to comply with the provisions of SCR 115 at that time, *id.*, and based on the record currently before this court it appears that he has complied with that directive.
6. The exception of prescribed medications does not include mind altering drugs obtained via the Internet or stimulant types of weight control drugs.
7. The panel's recommendation includes a total restitution amount of \$118,864.18 and includes a breakdown of restitution due by grievance number and client. Sanchez, however, has submitted a motion to supplement the record with a stipulation executed by Sanchez's counsel, bar counsel, and the panel chair. The stipulation indicates that the total restitution amount is \$101,244.28 and specifies the reduction in restitution amounts for specific grievances. We direct the clerk of this court to file the motion received on May 19, 2015, and we grant that motion and direct the clerk of this court to file the stipulation received on May 19, 2015.

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DISCIPLINE KEY

Resignation with charges pending:
SCR 98(5)(b)

Types of possible discipline listed generally:
SCR 102

Attorneys convicted of crimes:
SCR 111

**Conditional guilty plea agreements
(discipline by consent):** SCR 113

Reciprocal discipline: SCR 114

Disbarred/Suspended attorneys: SCR 115

Reinstatement: SCR 116

Disability Inactive: SCR 117

Supreme Court Rules (SCRs):
www.leg.state.nv.us/CourtRules/SCR.html

DISBARMENT – License to practice revoked.

SUSPENSION – License suspended for a time certain, ineligible to practice. More than six months requires petition for reinstatement and court order.

DISABILITY INACTIVE – Ineligible to practice until further order of the court. In the interim, disciplinary proceedings held in abeyance.

INTERIM TEMPORARY SUSPENSION – Interim suspension based on showing of a substantial threat of serious harm to the public, in effect until further court order, usually after hearing.

RESIGNATION WITH CHARGES PENDING – Ineligible to practice. Requires Bar Counsel approval. Resignation is irrevocable, with readmission only possible upon application as a new admittee.

PUBLIC REPRIMAND – Misconduct found and public censure issued, including attorney's name and the underlying facts and charges. Published in *Nevada Lawyer* and made available to the press. Remains eligible to practice law.

LETTER OF REPRIMAND – Lowest level of discipline. Not published, but disclosed upon request under the new rules. May also include up to a \$1,000 fine and restitution. Remains eligible to practice.

ADMINISTRATIVE SUSPENSION – Attorneys may be administratively suspended for failure to pay bar fees (SCR 98(12)), and/or for failure to complete and report the required Continuing Legal Education hours (SCR 212). While these **are not disciplinary suspensions**, the attorney is **ineligible to practice law** until the deficiency is remedied and the procedures to transfer back to active status completed as set forth in the applicable rules.