

# Bar Counsel Report

**In Re: DAVID A. FRANCIS**  
**Bar No.: 7705**  
**Case No.: 82802**  
**Filed: 07/22/2021**

## ORDER OF CONDITIONAL REINSTATEMENT

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

This court suspended Francis from the practice of law for violating RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property), RPC 5.3 (responsibilities regarding nonlawyer assistants), RPC 5.5 (unauthorized practice of law), RPC 7.2(k) (advertising), RPC 7.3 (communications with prospective clients), and RPC 8.4 (misconduct). *In re Discipline of Francis*, Docket No. 70020 (Order Approving Conditional Guilty Plea, June 14, 2016). Francis petitioned for reinstatement on December 4, 2020, after his term of suspension ended. Following a hearing, the panel unanimously recommended that he be reinstated to the practice of law with certain conditions.

We review the petition for reinstatement de novo. *Application of Wright*, 75 Nev. 111, 112-13, 335 P.2d 609,610 (1959). Having considered the record, we agree with the panel that Francis satisfied most of the criteria set forth in SCR 116(2)(a)-(g) by clear and convincing evidence. SCR 116(2) (providing that an attorney seeking reinstatement must demonstrate compliance with certain criteria "by clear and convincing evidence.") And, as to his failure to strictly comply with the suspension order's requirement that he participate in the Nevada Lawyer's Assistance Program, we conclude that he has "present[ed] good and sufficient reason why [he] should nevertheless be reinstated." SCR 116(2); see also SCR 116(2)(a) (requiring full compliance with the terms of all prior disciplinary orders for reinstatement). We therefore approve the panel's recommendation that Francis be reinstated to the practice of law. We also impose the following conditions on reinstatement:

- 1) Francis shall provide the State Bar with copies of his federal income tax returns for tax years 2012 through 2020 to demonstrate that he has not owned or operated a law firm or shared in any legal fees from his former firm while suspended within 30 days from the date of this order, if he has not done so already.
- 2) Francis shall attend Alcoholics Anonymous at least once per week for one year, provided that he continues his individual therapy. If Francis

discontinues his individual therapy during that year, he shall attend Alcoholics Anonymous at least twice per week for the remainder of that year.

- 3) Francis shall pay \$150,000 to the Client Security Fund within 30 days from the date of this order, if he has not done so already.
- 4) Francis shall pay the State Bar the costs of the disciplinary proceedings, excluding bar counsel and staff salaries, up to \$150,000, within 90 days of receiving the bill from the State Bar.
- 5) Francis shall participate in the State Bar's Mentoring Program for a period of one year from reinstatement. This requirement shall only apply if Francis is a sole practitioner in Nevada or managing partner of a law firm in Nevada with access to client trust accounts and/or trust account funds. Participation in the State Bar's Mentoring Program will require monthly meetings with Francis's assigned mentor and providing regular compliance reports to the State Bar as ordered.
- 6) Francis shall pay the costs of the reinstatement proceeding, including \$2,500 under SCR 120, within 90 days from the date of this order, if he has not done so already.

Providing that Francis passes the Nevada bar exam, including the multi-state professional responsibility exam, and meets all other qualifications for admission to the Nevada bar, he shall be reinstated, subject to the above conditions. See SCR 116(5) (requiring an attorney who has been suspended for five years or more to successfully complete the bar exam in order to be reinstated and allowing for conditions on reinstatement).

It is so ORDERED.

**In Re: CALEB LANGSDALE**  
**Bar No.: 10388**  
**Case No.: OBC21-0357**  
**Filed: 07/23/2021**

## LETTER OF REPRIMAND

To Caleb Langsdale:

A Screening Panel of the Southern Nevada Disciplinary Board reviewed the above-referenced grievance and unanimously determined to issue you a Letter of Reprimand for violations of Rules of Professional Conduct (RPC) set forth below regarding your handling of a collection matter.

## GRIEVANCE

Grievant, Kimberly Pruitt, owed money to Pennsylvania State Employees Credit Union (PSECU) for a loan and

credit card debt. You were retained by the Ohio law firm of Weltman & Weinberg to represent PSECU in its collection efforts in Nevada. You negotiated a settlement with Pruitt to settle her debts to PSECU for \$20,000.

On December 14, 2020, Pruitt delivered a check to your office that was cashed on or about December 23, 2020. On April 5, 2021, Pruitt complained to the State Bar that you had not forwarded the funds to PSECU on her behalf to settle her outstanding debts.

As a result of Pruitt's grievance, the State Bar of Nevada reviewed your trust account records between December 2020, and April of 2021. The records showed that between January 4, 2021, and January 2021, your trust account balance fell below the \$20,000 that you were holding in trust to pay PSECU on behalf of Ms. Pruitt. The records also showed that on several occasions you failed to withdraw earned fees from your trust account after you had earned the fees. Lastly, the records also showed that you failed to communicate your fee to PSECU on this matter which resulted in you withdrawing a 33% fee from the \$20,000 that you recovered from Ms. Pruitt without having authorization from PSECU.

## REPRIMAND

Based upon the foregoing, you are hereby REPRIMANDED for your conduct related to representation of the foregoing client(s), which conduct violated the Nevada Rules of Professional Conduct ("RPC") as follows:

RPC 1.5(b) (Fees) – for withdrawing legal fees without having communicated the rate of the fee to your client and without having your client agree to the rate.

RPC 1.15 (Safekeeping) – for commingling earned fees with trust funds because you failed to withdraw earned fees from your trust account when they were earned. And for failing to safekeep funds for PSECU between January 4, 2021, and January 31, 2021, because your trust account balance fell below the \$20,000 you were holding in trust for PSECU.

RPC 8.4 (Misconduct) – for violating the Rules of Professional Conduct relating to fees and safekeeping.

The Nevada Supreme Court and the American Bar Association Standards for Imposing Lawyer Sanctions adopted an analysis of four factors to consider for disciplinary sanctions: 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 Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (Nev. 2008).

You have a duty communicate the rate of fee for your services to your client. You also have a duty to safeguard client funds. The evidence shows that you failed to communicate your rate of fee to PSECU before you charged them a fee of 33% of the funds recovered in this case. Also, you failed to safeguard client funds because your trust account balance fell below the \$20,000 that you held in trust for PSECU between January 4, 2021, and January 31, 2021. Further, records show that on several occasions you

failed to withdraw earned fees from your trust account after they were earned. Your failure to withdraw your earned fees resulted in you improperly commingling personal funds with trust funds.

Your conduct could have resulted in actual injury to PSECU had you not replenished the balance in your trust account sufficient to pay the full \$20,000 owed to your client. Thus, weighing the rules violated, your mental state, the potential or actual injury caused, the applicable ABA Standard is 4.13, which states that: “Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.”

The Supreme Court of Nevada has provided two types of reprimand: a Public Reprimand or a Letter of Reprimand. The latter is the lowest form of discipline available. Based upon the above factors, the Panel finds that the lesser of the two sanctions is appropriate.

Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$1,500.

**In Re: ANDREW WASIELESKI**

**Bar No.: 6161**

**Case Nos.: OBC20-0716 & OBC20-0789**

**Filed: 07/23/2021**

## LETTER OF REPRIMAND

To Andrew Wasieleski:

In or about April 2018, Christopher Nordby (“Nordby”) retained you for \$750 to help him fight an eviction in Henderson.

You did not appear for the first hearing on the eviction, so it had to be rescheduled. You were unsuccessful in preventing the eviction, but you agreed to help Nordby recover his security deposit from the landlord. Nordby paid you a total of \$987 to file a lawsuit against the landlord and get all the parties served.

You filed a civil Complaint on Nordby's behalf in Las Vegas Justice Court on December 7, 2018, after a resolution with the landlord could not be reached. The landlord's attorney subsequently filed a Motion to Dismiss, and you then filed an opposition. A court hearing was set for May 16, 2019.

You attended the May 16, 2019, hearing and later told your client that the judge dismissed the matter without prejudice.

Court minutes from the May 16, 2019, hearing in the Las Vegas Justice Court confirmed that you were present, and the judge questioned why the case was not filed in Henderson, Nevada, as all the parties and property were in Henderson. You asserted that you believed that you and your client could pick the judicial forum, and then requested that the case be dismissed

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“as they would re-file in Henderson,” according to court minutes.

The court minutes stated: “Court ORDERS this Case is DISMISSED as it should be filed in the proper jurisdiction of Henderson Justice Court.” (Emphasis in original). You never advised Nordby that his case had been filed in the wrong jurisdiction. You also did not re-file the civil complaint on Nordby’s behalf in Henderson, the correct jurisdiction.

ABA Standard 4.53 states that Reprimand is generally appropriate when a lawyer demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client.

In addition, ABA Standard 4.53 states that Reprimand is generally appropriate when a lawyer demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client. Accordingly, you are hereby Reprimanded for violating Rule of Professional Conduct 1.1 (Competence) and RPC 1.4 (Communication).

**In Re: XAVIER GONZALES**

**Bar No.: 1862**

**Case Nos.: OBC20-1112**

**Filed: 07/22/2021**

## LETTER OF REPRIMAND

To Xavier Gonzales:

The Mendoza family retained you in 2014 to represent them in an immigration matter. In February 2015, you filed the U-Visa/918 Petition for the family. An immigration form which accompanied the petition showed your office then-address on South Casino Center Blvd in Las Vegas.

You subsequently moved your office to Lake Mead Boulevard in Las Vegas. However, you failed to update your address with the United States Customs and Immigration Services (USCIS). In 2015, you updated your office address with the United States Postal Service and requested a forwarding address, which expired in 2016.

More than four years after you submitted the U-Visa/918 Petition, on February 11, 2019, the USCIS sent a request for additional evidence (RFE). USCIA [sic] stated that the additional information was due on May 9, 2019. The request, however, was sent to your prior office address on Casino Center Boulevard as listed on the original petition.

As such, you failed to respond to the RFE by May 2019 deadline. A Notice of Denial dated June 13, 2019, was issued by USCIS and once again sent to the address on Casino Center Boulevard. You were not aware of the denial as it was sent to your former address.

On September 4, 2019, USCIS sent a notice of hearing in removal proceedings for the Mendoza family and directed them to appear at the Las Vegas Immigration Court on November 19, 2019.

On October 4, 2019, you met with the Mendoza family and advised them that you never received from USCIS the RFE or Notice of Denied [sic]. You advised them to seek outside counsel to assist them in resolving their matter because of a possible conflict of interest.

The Mendoza family has since retained new counsel and their immigration case remains pending. In mitigation, you worked with their new attorney and prepared an affidavit accepting responsibility for the fact a change of address was not submitted and, therefore, the RFE was not received or responded to.

Accordingly, you are hereby Reprimanded for violating Rule of Professional Conduct 1.3 (Diligence).

## ETHICS HOTLINE FOR ATTORNEYS

Call now:

**1-800-254-2797**



Attorneys with questions about ethics and the Rules of Professional Conduct may reach out to the Office of Bar Counsel for informal guidance during any business day.

Each day, a State Bar of Nevada attorney is assigned to take calls from lawyers with questions about the legal profession in our state.





**TIP**

## FROM THE BAR COUNSEL

### Lawyer Ethical Duties Extend Beyond the Courtroom

**Nevada is a large state geographically. More than 80 percent of Nevada is federally owned but generally accessible by the public. As a result, Nevadans have numerous opportunities to use that land for recreation.**

Nevadans can boat at Lakes Mead and Tahoe, attend the festival in Black Rock Desert, hike and camp in the Ruby Mountains or Jarbridge Wilderness area, or view wildlife in the Pahrangat National Wildlife Refuge or Red Rock Canyon. Nevada lawyers should take advantage of these public lands to reduce stress and to increase and improve work-life balance.

While enjoying public lands, lawyers often encounter criminal codes or statutes. The remoteness of Nevada's public lands might increase one's temptation to ignore these criminal laws. Some examples of temptations might include boating while intoxicated on Lake Mead or Lake Tahoe, hunting in prohibited areas or illegally harvesting an animal, improper use of intoxicants in Black Rock Desert, damaging or trespassing in protected areas such as Ash Meadows Wildlife Refuge, which contains petroglyphs and the endangered Amargosa pupfish.

If a lawyer is "convicted" of a crime "other than a minor traffic violation not involving the use of alcohol or a controlled substance," that lawyer has an affirmative duty to self-report that conviction to the State Bar of Nevada within 30 days. Supreme Court Rule (SCR) 111(2). A lawyer needs to report a "conviction" if the lawyer has entered a plea of no contest, an Alford plea, or received a guilty verdict after a bench or jury trial regardless of whether the sentence was suspended or deferred, or whether a final judgment of conviction has been entered, and regardless of any pending appeals. SCR 111(1).

Any conviction may result in discipline but, if the attorney's conviction is for a "serious crime," the "[Supreme] Court shall enter an order suspending the attorney, regardless of the pendency of an appeal, pending final disposition of a disciplinary proceeding, which shall be commenced by the appropriate disciplinary board upon referral by the supreme court." SCR 111(7). Serious crimes consist of any felony, or any crime less than a felony that adversely reflects upon the attorney's fitness to practice law or involves fraud or theft, etc. See SCR 111(6).

As a result of the substantial impact a conviction might have on an attorney's license to practice law, Nevada attorneys have a compelling reason to be mindful of our ethical duty to comply with state and local laws and self-report any violation while we are recreating in Nevada's vast public lands.