

Bar Counsel Report

In Re: ROBERT W. LUECK
Bar No.: 1489
Case No.: SBN22-0009
Filed: 06/26/2023

PUBLIC REPRIMAND

To: Robert W. Lueck, Esq:

You represented parties in separate but unrelated divorce cases in the Eighth Judicial District Court. District Judge Charles Hoskin presided over both Family Court cases.

In March 2022, you filed a motion to disqualify Judge Hoskin and attached a declaration which referenced two cases in which you represented parties in unrelated Family Court proceedings.

In your declaration, you accused Judge Hoskin of “judicial misconduct” and claimed that in one of cases, Judge Hoskin “rudely interrupted my presentation and yelled at me for trying to lecture him on the law.”

You also described Judge Hoskin as an “irresponsible jerk for the way he conducted himself in that hearing,” and stated that his “rationales and decisions were utter nonsense and lacked any rational relationship to reality. It was not merely wrong; it was beyond crazy and stupid.”

Finally, you stated that you had “serious concerns with Judge Hoskin’s mental well being.”

In light of the foregoing, you violated Rule of Professional Conduct 8.2(a) (Judicial and Legal Officials) and are hereby PUBLICLY REPRIMANDED and ordered, pursuant to Supreme Court Rule 120 (Costs) to pay \$1,500 pursuant plus the costs of the disciplinary proceeding within thirty (30) days of receipt of a billing.

In Re: PRESTON S. KERR
Bar No.: 3978
Case No.: SBN21-99193 & SBN22-00418
Filed: 07/11/2023

PUBLIC REPRIMAND

To: Preston S. Kerr, Esq.:

On June 13, 2023, a Formal Hearing Panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. The Panel unanimously accepted the Conditional Guilty Plea and concluded that you should be issued a Public Reprimand for violations of Rule of Professional Conduct (“RPC”) 1.7 (Conflict of interest: Current Clients) and RPC 1.8 (Conflict of Interest: Current Clients: Specific Rules).

On or about May 9, 2018, J.B. (hereinafter “Grievant”) and B.J. retained you for assistance in setting up an LLC. After Grievant and B.J. paid your initial retainer, you set up Meta-Tech Consultants, LLC (“Meta-Tech”) that same day. In or around August 2018, you agreed to form Circle Society, Corp.

(“Circle Society”) for D.S., which was fanned with the Nevada SOS on September 9, 2018.

On September 24, 2018, you proposed a new business structure for Meta Fund in an email to Grievant and B.J. Your proposal would have him manage Meta Fund, while Grievant and B.J. solicited investors. Meta Fund would be owned by Meta-Tech, and the Meta Fund operating agreement would be amended to restructure the ownership (51% to you; 49% to Grievant and B.J., split equally). In an email, you wrote, “[a]lso, since I am your attorney I will need you to sign a waiver indicating that you have had the opportunity to discuss this deal with your own outside attorney and that we are agreeing to modify our relationship to business partners rather than attorney/clients.” Grievant and B.J. agreed to your proposal.

On October 31, 2018, you, Grievant, and B.J. executed the Meta Fund operating agreement. The Meta Fund operating agreement set forth the business relationship between the parties and stated there was no longer an attorney-client relationship between you, Grievant, and B.J. In the Meta Fund operating agreement, Bitex Mining, LLC (hereinafter “Bitex”) and Circle Society were disclosed as “investment products.” Your attorney-client relationship with Circle Society, however, was not disclosed. Meta Fund did no business with Bitex or Circle Society.

On August 22, 2019, you resigned as the manager of Meta Fund. You, however, offered to stay on as Nevada counsel during any transition as a courtesy to Grievant while Grievant finds a replacement manager. Grievant agreed that you should stay on as counsel for Meta-Tech and Meta Fund. You agreed to amend the Operating Agreement and to transfer your 51% interest to Grievant but, Grievant has not accepted your 51% interest.

RPC 1.7 (Conflict of Interest: Current Clients) states, in pertinent part, that a lawyer “shall not represent a client if the representation involves a concurrent conflict of interest.” The Rule further explains that there is a concurrent conflict of interest if “(1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.” Notwithstanding this conflict, a lawyer may represent a client if “(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and (4) each affected client gives informed consent, confirmed in writing.” You negligently violated RPC 1.7 (Conflict of Interest: Current Clients) because you failed to disclose your attorney-client relationship with Circle Society before Grievant and/or Mr. Johnson executed Meta Fund’s operating agreement giving you 51% ownership.

RPC 1.8 (Conflict of Interest: Current Clients: Specific Rules) states, in pertinent part, that a lawyer “shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless: (1) [t]he transaction and terms on which the lawyer acquires the interest are fair and reasonable

to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client; (2) [t]he client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and (3) [t]he client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction." You negligently violated RPC 1.8 (Conflict of Interest: Current Clients: Specific Rules) because you did not obtain separate written informed consent signed by Grievant and/or Mr. Johnson, regarding your role in the transaction, when you acquired an ownership interest in Meta Fund.

Under ABA Standard 4.33, reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client. These types of ethical breach could have resulted in potential injury to your client(s).

DISCIPLINE IMPOSED

In light of the foregoing, you are hereby PUBLICLY REPRIMANDED for violating RPC 1.7 (Conflict of Interest: Current Clients) and RPC 1.8 (Conflict of Interest: Current Clients: Specific Rules). In addition, pursuant to SCR 120(3), you shall pay a \$1,500.00 fee plus the hard costs of the instant proceedings. You shall make such payment no later than thirty (30) days after receiving a billing from the State Bar.

In Re: MARK T. COBURN
Bar No.: 8032
Case No.: SBN22-00500
Filed: 06/16/2023

LETTER OF REPRIMAND

Dear Mr. Coburn:

On or about October 6, 2021, Gladys Morales retained your law firm, Half Price Lawyers ("HPL"), to seal her criminal records. She paid a fee and signed a retainer agreement. She also signed other forms required for sealing records.

On October 19, 2021, HPL submitted a criminal history report request to the Las Vegas Metropolitan Police Department ("LVMPD").

Ms. Morales' matter was handled by you and at least two non-lawyers in your office.

On August 3, 2022, HPL sent the District Attorney's Office an e-mail inquiring on the status of the already submitted criminal history records request form. The District Attorney's Office responded and indicated that it did not have anything regarding Morales' matter and requested HPL to re-submit the form.

On September 9, 2022, the firm re-submitted the records request form. On October 19, 2022, LVMPD provided HPL with Morales' criminal history print out.

In your November 2022, response to the State Bar, you stated that HPL had received Ms. Morales' criminal history from LVMPD and that HPL would complete the record sealing process for her. However, you did not file a Petition to Seal Records until February 2023.

In March 2023, a judge entered the Order to Seal Records. The Clerk filed and certified the Order to Seal Records on March 23, 2023. LVMPD completed the record sealing process on March 28, 2023.

However, as of May 2, 2023, Ms. Morales still had not received a certified copy of the Order to Seal Records from you and your law firm. Accordingly, you are hereby Reprimanded for violating Rule of Professional Conduct 1.3 (Diligence) and RPC 5.3 (Responsibilities Regarding Non-Lawyer Assistants). Finally, in accordance with Nevada Supreme Court Rule 120 (Costs) you are assessed costs in the amount of \$1,500.

In Re: TRISTAN F. RIVERA
Bar No.: 12481
Case No.: SBN22-00539
Filed: 06/22/2023

LETTER OF REPRIMAND

Dear Mr. Rivera:

On June 13, 2023, a Screening Panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. Based on the evidence presented, the Panel unanimously 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.

On or about March 19, 2019, you were retained by V.C. to assist him with personal injury claims arising from an accident that occurred on March 16, 2019, in Hesperia, California. You are not licensed to practice law in California. On or about March 20, 2019, you began sending out letters of representation to multiple insurance companies. You were advised by at least two (2) insurance companies that the applicable SOL on Grievant's injury claim would expire on March 16, 2021.

Due to COVID-19, you were informed on or about March 11, 2021, that pursuant to "CA COVID-19 Amended Emergency Rule 9 ... the new statute of limitations to make bodily injury claim for your adult clients" is September 10, 2021. You did not involve a California-licensed attorney, S.P., until early September 2021, and a Complaint was not filed until September 13, 2021.

Pursuant to Cal. R. Ct. 3.110(b), S.P. had sixty (60) days from the date of the Summons to serve all named defendants and provide proof of service to the court. S.P. failed to do the same, and on December 22, 2021, S.P. filed a Request for Dismissal.

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RPC 1.1 (Competence) states that a lawyer “shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.” RPC 1.3 (Diligence) states that a lawyer “shall act with reasonable diligence and promptness in representing a client.” On or about March 19, 2019, V.C. retained your legal services. You took the case on even though you are not licensed to practice in California. During the course of V.C.’s representation, you received multiple notifications of the California SOL expiration date. Although you were informed that the new SOL for V.C.’s claims changed to September 10, 2021, due to COVID-19, you did not reach out to a California-licensed attorney until a few days before the SOL’s expiration, and once retained, S.P. failed to file and serve the Complaint timely. Arguably, this could have been avoided if you would have contacted S.P. earlier, giving him more than a couple of days with the file prior to the SOL running. This type of ethical breach caused injury to your client. Under ABA Standard 4.43, reprimand is generally appropriate when a lawyer is negligent and does

not act with reasonable diligence in representing a client, and causes injury or potential injury to a client. Under ABA Standard 4.53, reprimand is generally appropriate when a lawyer: (a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or (b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

Accordingly, you are hereby REPRIMANDED for violating RPC 1.1 (Competence) and RPC 1.3 (Diligence). In addition, pursuant to Supreme Court Rule 120, you are required to remit to the State Bar of Nevada the amount of \$1,500.00, plus the hard costs of these proceedings, no later than 30 days after receiving a billing from the State Bar. 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.

My client's employee is seeking leave and job modifications.

Call KZA



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Nevada Capping Law is Changing ... No Cap

If you keep up with today's lingo, then you understand the phrase "no cap." According to Urban Dictionary, "no cap" conveys "authenticity and truth." For example, one could say, "A highway patrol officer pulled over a 5-year-old for speeding in an SUV, no cap." In legal terms, capping is neither authentic nor true. It is unethical and unlawful. And the penalties are increasing, no cap.

Assembly Bill No. 408 (AB408) will go into effect on October 1, 2023. AB408 changes the law on capping, NRS 7.045. AB408's revisions to NRS 7.045 are as follows:

- 7.045 1. Except as otherwise provided in this section, it shall be unlawful for a person ~~in exchange for compensation;~~ to solicit a tort victim to employ, hire or retain any attorney at law:
- (a) At the scene of a traffic crash that may result in a civil action; ~~for~~
 - (b) At a county or city jail or detention facility ~~for~~;
 - (c) *At a medical facility or other location where a provider of health care performs health care services; or*
 - (d) *Within 72 hours after the tort occurred.*
2. It is unlawful for a person to conspire with another person to commit an act which violates the provisions of subsection 1.
3. This section does not prohibit or restrict:
- (a) A recommendation for the employment, hiring or retention of an attorney at law in a manner that complies with the Nevada Rules of Professional Conduct.
 - (b) The solicitation of motor vehicle repair or storage services by a tow car operator.
 - (c) Any activity engaged in by police, fire or emergency medical personnel acting in the normal course of duty.
 - (d) A communication by a tort victim with the tort victim's insurer concerning the investigation of a claim or settlement of a claim for property damage.
 - (e) Any inquiries or advertisements performed in the ordinary course of a person's business.
4. ~~A tort victim may void any~~ Any contract, agreement or obligation that is made, obtained, procured or incurred *with a tort victim* in violation of this section ~~is~~ *is void.*
5. *A tort victim who prevails in a civil action pursuant to this section:*
- (a) *May recover:*
 - (1) *Twice the amount of actual damages he or she incurred from the violation of this section; and*
 - (2) *An amount equal to twice the amount of the financial obligation imposed upon the tort victim by the contract, agreement or obligation that was made, obtained, procured or incurred in violation of this section.*
 - (b) *Is entitled to reasonable attorney's fees and costs.*
6. *A civil action pursuant to this section is subject to the limitation set forth in subsection 1 of NRS 11.190.*
7. Any person who violates any of the provisions of this section ~~is~~ *is*:
- (a) *For the first offense, is guilty of a gross misdemeanor.*
 - ~~6~~ (b) *For a second or any subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.*
8. As used in this section, "tort victim" means a person:
- (a) Whose property has been damaged as a result of any accident or motor vehicle crash that may result in a civil action, criminal action or claim for tort damages by or against another person;
 - (b) Who has been injured or killed as a result of any accident or motor vehicle crash that may result in a civil action, criminal action or claim for tort damages by or against another person; or
 - (c) A parent, guardian, spouse, sibling or child of a person who has died as a result of any accident or motor vehicle crash that may result in a civil action, criminal action or claim for tort damages by or against another person.

It will no longer matter whether a capper receives compensation or not. NRS 7.045(1). Further, AB408 added another protected location – "[a]t a medical facility or other location where a provider of health care performs health care services[.]" and anywhere if the capping occurs "[w]ithin 72 hours after the tort occurred." *See id.*

Also, solicited clients can recover double the damages, which includes the unethical lawyer's fees. *See* NRS 7.045(5). Criminal penalties will increase too. Violations are no longer misdemeanors. Lawyers engaged in capping will receive penalties for a gross misdemeanor or a category E felony. NRS 7.045(7). These changes take effect October 1, 2023, and will be a bane to unethical cappers and a boon to honest, ethical lawyers ... NO CAP.