

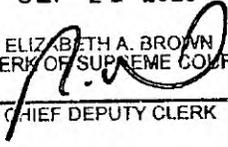
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
DOUGLAS W. NICHOLSON, BAR NO.
3654

No. 85659

FILED

SEP 22 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF DISBARMENT

This is an automatic review of a Northern Nevada Disciplinary Board hearing panel's recommendation that attorney Douglas W. Nicholson be disbarred from the practice of law in Nevada based on violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 5.5 (unauthorized practice of law), and SCR 115 (notice of change in license status; winding down of practice). Because no briefs have been filed, this matter stands submitted for decision based on the record. SCR 105(3)(b).

The State Bar has the burden of showing by clear and convincing evidence that Nicholson 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 Nicholson violated the above-referenced rules as those findings are supported by substantial evidence and are not clearly erroneous. *See* SCR 105(3)(b); *In re Discipline of Colin*, 135 Nev. 325, 330, 448 P.3d 556, 560 (2019). In particular, the record supports the panel's findings that Nicholson violated RPC 1.3 and RPC 1.4 by knowingly failing to promptly and diligently advance his clients' respective personal injury matters while his license was still active, resulting in the statute of limitations running on one of the client's claims,

and by failing to communicate with his clients about the statuses of their claims, including failing to inform the client whose claim later expired of a \$5,324 settlement offer from an insurance company. The record likewise supports the panel's findings that Nicholson intentionally violated RPC 5.5 and SCR 115 by failing to inform his clients and others when he was suspended from the practice of law and engaging in the unauthorized practice of law by continuing to represent clients after being suspended and keeping their cost retainers despite incurring no costs on behalf of the clients.¹

Turning to the appropriate discipline, we review the hearing panel's recommendation de novo. SCR 105(3)(b). Although we "exercise independent judgment," the panel's recommendation is persuasive. *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). 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).

Nicholson knowingly violated duties owed to his clients (diligence and communication) and intentionally violated a duty owed to both his clients and the profession (unauthorized practice of law). Nicholson's clients suffered actual injury as Nicholson kept their \$500 retainers and his lack of diligence and communication resulted in their matters being either delayed or time-barred, such that one client was

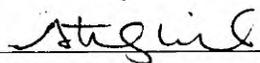
¹Nicholson was suspended for two years on July 24, 2020. *In re Discipline of Nicholson*, No. 81190, 2020 WL 4284480 (Nev. July 24, 2020) (Order of Suspension).

unable to pursue his claim. Nicholson has been disciplined at least three other times for failing to communicate and diligently litigate his clients' cases while being disciplined two other times for intentionally keeping his clients' monies despite his ethical violations. The baseline sanction for Nicholson's misconduct, before considering aggravating and mitigating circumstances, is disbarment. See *Standards for Imposing Lawyer Sanctions, Compendium of Professional Responsibility Rules and Standards*, Standard 7.1 (Am. Bar Ass'n 2017) (recommending disbarment "when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public or the legal system"); Standard 8.1(b) (recommending disbarment when a lawyer "has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further similar acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession").

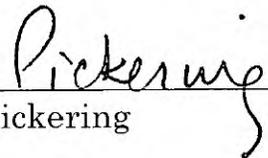
The record supports the panel's findings of no mitigating circumstances and three aggravating circumstances (prior disciplinary offenses, substantial experience in the practice of law, and retention of cost advances). Notably, Nicholson was disciplined eight other times between 1993 and 2020, including multiple public reprimands and suspensions. Considering all the factors, we agree with the panel that there is no basis to depart from the baseline sanction of disbarment. See *In re Discipline of Arabia*, 137 Nev., Adv. Op. 59, 495 P.3d 1103 (2021) (observing that the purpose of attorney discipline is to protect the public, the courts, and the legal profession).

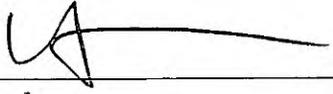
Accordingly, we hereby disbar attorney Douglas W. Nicholson from the practice of law in Nevada. Such disbarment is irrevocable. SCR 102(1).² Further, Nicholson shall pay the costs of the disciplinary proceedings, including \$3,000 under SCR 120, within 30 days from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.


_____, C.J.
Stiglich

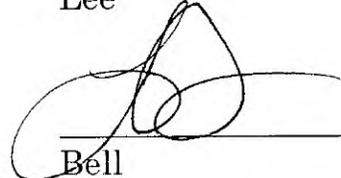

_____, J.
Cadish


_____, J.
Pickering


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre


_____, J.
Bell

cc: Chair, Northern Nevada Disciplinary Board
Richard F. Cornell
Bar Counsel, State Bar of Nevada
Executive Director, State Bar of Nevada
Admissions Office, U.S. Supreme Court

²Although the hearing panel also recommended that we order Nicholson to pay restitution to his clients, SCR 102 does not provide for restitution in conjunction with disbarment and restitution cannot be said to further the purpose of attorney discipline when an attorney has been permanently disbarred, so we cannot order restitution in this matter. See *In re Discipline of Christopher*, No. 82110, 2021 WL 673469 (Nev. Feb. 19, 2021) (Order of Disbarment); *In re Discipline of Errico*, No. 73995, 2018 WL 5095817 (Nev. Oct. 10, 2018) (Order of Disbarment).