

1 Case Number: OBC17-0467
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7 **STATE BAR OF NEVADA**
8 **NORTHERN NEVADA DISCIPLINARY BOARD**
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11 **LETTER OF REPRIMAND**

12 TO: John Ohlson, Esq.
13 c/o David Grundy, Esq.
14 Lemons, Grundy, Eisenberg
6005 Plumas Street, Suite 300
Reno, Nevada 89519

15 On February 15, 2018, a Screening Panel of the Northern Nevada Disciplinary Board
16 considered the above-referenced grievance. Based on the evidence presented, the Panel
17 concluded that you violated the Rules of Professional Conduct and should be issued a Letter
18 of Reprimand. This letter shall constitute a delivery of that reprimand.

19 **Underlying Facts**

20 Vivian Harrison ("Harrison") sought representation to pursue claims against a
21 psychiatrist that had rendered an expert opinion in a separate litigation, which she believed
22 had been issued without sufficient supporting information. On or about May 22, 2013, you
23 entered into an attorney-client relationship with Harrison and she paid you a total of
24 \$150,000 - \$75,000 to pursue her claims before the Board of Medical Examiners and
25 \$75,000 to pursue a civil action against the psychiatrist for medical malpractice and other

1 claims. Her payment was consistent with the fee agreement you entered into, which set
2 forth that the Board Action was a one-time flat fee and the Civil Action was a two-tiered
3 structure – the \$75,000 portion as a flat fee and a contingent fee commensurate with the
4 limitations set forth in NRS 7.095.¹

5 On June 26, 2013, you filed the civil action, on behalf of Harrison, against the
6 psychiatrist. First, the litigation was transferred to a different jurisdiction. Then, the
7 psychiatrist's Motion to Dismiss was granted. You appealed the dismissal, on Harrison's
8 behalf, including presenting oral argument to the Nevada Supreme Court in the matter.
9 The dismissal was ultimately upheld on December 17, 2015.

10 On July 2, 2013, you lodged a cover letter and complaint with the Board of Medical
11 Examiners regarding the same psychologist. On July 31, 2013, you followed up with the
12 Board by sending a letter to the investigator assigned to the matter clarifying the reason for
13 the complaint and providing documentation that countered the psychiatrist's original
14 opinion and discussed the validity of that opinion. On September 13, 2013, you sent a
15 second letter to the Board investigator declining a request to Harrison for her medical
16 records, citing that her medical records were not relevant in this circumstance (although
17 Harrison did provide a HIPPA waiver for the psychiatrist that issued the countering
18 opinion). On October 11, 2013, the investigator sent a letter to you informing you that the
19 investigation was at the initial stage.

20 Nothing happened in the Board Action between October, 2013 and June, 2016.
21 Moreover, there was nothing that you could have done to cause the Board Action to move
22 forward. If the Board of Medical Examiner's Investigator finds that there is a reason to
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25 ¹ The fee agreement allocated \$100,000 to the Board Action and \$50,000, plus a contingency, to the civil action. You and Harrison informally agreed to allocate the \$150,000 to be one half for each of the two proceedings.

1 present a matter to the Board's disciplinary panel, then the Board staff handles all of the
2 investigation and presentation of the matter.

3 Application of Law to Fact

4 RPC 1.5 (Fees) states that

5 (a) A lawyer shall not make an agreement for, charge, or collect an
6 unreasonable fee or an unreasonable amount for expenses. The factors to be
considered in determining the reasonableness of a fee include the following:

7 (1) The time and labor required, the novelty and difficulty of
the questions involved, and the skill requisite to perform the legal service
8 properly;

9 (2) The likelihood, if apparent to the client, that the
acceptance of the particular employment will preclude other employment by
the lawyer;

10 (3) The fee customarily charged in the locality for similar legal
services;

11 (4) The amount involved and the results obtained;

12 (5) The time limitations imposed by the client or by the
circumstances;

13 (6) The nature and length of the professional relationship with
the client;

14 (7) The experience, reputation, and ability of the lawyer or
15 lawyers performing the services; and

16 (8) Whether the fee is fixed or contingent.

17 In this instance, you charged, and were paid, a \$75,000 fee to submit the Board
18 Action. You anticipated that the representation would entail substantial work. However,
19 prior to the representation you did not investigate whether the complaint process with the
20 Board of Medical Examiners provided for outside representation of an aggrieved person.
21 That complaint process does not, in fact, contemplate outside representation of an
22 aggrieved person.

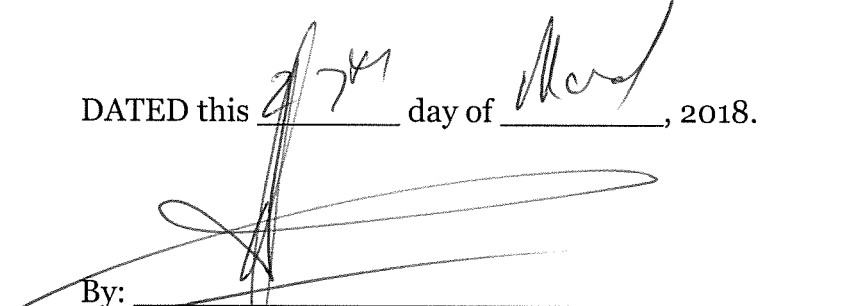
23 It is undisputed that your efforts on behalf of Ms. Harrison in the Board of Medical
24 Examiners' complaint process was comprised of drafting/receiving a handful of
25 correspondence in the matter and communicating with her about that correspondence.

1 You have represented that you would bill a client at \$500 per hour for your services; your
2 years of experience in practicing law and reputation supports such a billable rate. However,
3 you do not have a record of time that you dedicated to handling the Board Action and there
4 is a dearth of information to support that you spent approximately 150 hours on submitting
5 a complaint to the Board of Medical Examiners.

6 All attorneys are imputed with knowledge of the Rules of Professional Conduct.
7 Absent a showing that the obligations were not obvious to a practitioner, Section 7.2 of the
8 American Bar Associations' Standards for Imposing Lawyer Sanctions, provides that a
9 suspension from the practice of law is typically warranted in response to a violation of an
10 obligation, such as this one, that causes the client injury through the loss of funds. In this
11 matter, your lack of prior discipline over 45 years of practicing as an attorney and your
12 ultimate return to Harrison of \$70,000 of the fee charged for the Board Action are
13 mitigating factors which warrant a downward deviation from the presumptive sanction.

14 Accordingly, you are hereby REPRIMANDED for violating RPC 1.5 (Fees) and
15 assessed \$1,500, pursuant to SCR 120. I trust that this reprimand will serve as a reminder
16 to you of your ethical obligations, and that no such problems will arise in the future.

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18 DATED this 27th day of March, 2018.

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20 By: 
21 DOUGLAS R. RANDS, ESQ.
22 Screening Panel Chair
23 Northern Nevada Disciplinary Board
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