IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF ROBERT H. DOMICO, BAR NO. 6272.

No. 71842

FILED

SEP 11 2017

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

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

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 Robert H. Domico. Under the agreement, Domico admitted to violating RPC 1.8 (conflict of interest: current clients: specific rules). The agreement provides for a six-month suspension stayed subject to the condition that Domico have no further discipline resulting in a letter of reprimand or greater during the next two years.

Domico has admitted to the facts and violation alleged in the complaint. The record therefore establishes that Domico violated RPC 1.8 by representing a client while also serving as the client's real estate agent without obtaining a written waiver of conflict or advising his client of the desirability of seeking independent counsel for the real estate transaction.

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 and mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008). Domico violated a duty owed to his client (conflict

of interest), and the admitted violation reflects knowing or intentional misconduct. The client was potentially harmed because he believed that Domico would assist him with re-establishing his contractor's license and LLC in exchange for the client not informing Domico's law firm that Domico was listing real property for sale on behalf of the client and then the client's property was sold at a sheriff's sale, after it was removed from the market, to cover unpaid legal fees owed to Domico's law firm. There are three aggravating circumstances (dishonest or selfish motive, vulnerability of victim, and substantial experience in the practice of law) and three mitigating circumstances (absence of a prior disciplinary record, full and free disclosure to disciplinary authority or cooperative attitude toward the proceedings, and character and reputation). SCR 102.5.

The baseline sanction before considering aggravating and mitigating circumstances is suspension. *See* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.32 (Am. Bar Ass'n 2015) (providing that suspension is appropriate when a lawyer "knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client"). Considering the duty violated, the potential injury to Domico's client, and the aggravating and mitigating circumstances, we conclude that the guilty plea agreement should be approved. *See* SCR 113(1).

Accordingly, we hereby suspend attorney Robert H. Domico from the practice of law in Nevada for a period of six months. The suspension shall be stayed and Domico shall be on probation for two years from the date of this order with the following condition: Domico shall have no discipline resulting in a letter of reprimand or greater during the

probationary period. Additionally, Domico shall be publicly reprimanded, as proposed by the State Bar. Domico shall also pay the costs of the disciplinary proceedings, plus fees in the amount of $2,500, within 30 days of the date of this order if he has not done so already. SCR 120. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

_____, C.J.
Cherry

_____, J.
Douglas

_____, J.
Gibbons

_____, J.
Pickering

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Stiglich

cc: Chair, Southern Nevada Disciplinary Board
Morris Polich & Purdy, LLP/Las Vegas
C. Stanley Hunterton, Bar Counsel, State Bar of Nevada
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Perry Thompson, Admissions Office, U.S. Supreme Court

EXHIBIT 2