

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
NICKOLAS S. GIORGIONE, BAR NO.
14370.

No. 88038

FILED

APR 19 2024

ROSEBETH A. BROWN
CLERK OF SUPREME COURT
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 Nickolas S. Giorgione. Under the agreement, Giorgione admitted to violating RPC 1.15(a) (safekeeping property) and RPC 8.4(b), (c) (misconduct). He agreed to an 18-month suspension, stayed for 36 months subject to certain conditions.

Giorgione admitted to the facts and violations as part of his guilty plea agreement. In addition to his work as an associate at a law firm, Giorgione accepted a small number of clients through his solo practice. The record establishes that in that solo practice, Giorgione violated the above-listed rules by misappropriating about \$18,000 from his trust account through about 40 separate bank transfers to his operating account that were not related to earned fees or costs. He has repaid all the misappropriated funds.

The issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. *See In re Discipline of Arabia*, 137 Nev. 568, 571, 495 P.3d 1013, 1109 (2021) (stating the purpose of attorney discipline). 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).

Giorgione admitted to knowingly violating duties owed to his clients (safekeeping property) and the profession (misconduct). The baseline sanction for such misconduct, before considering the aggravating or mitigating circumstances, is suspension. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.12 (Am. Bar Ass’n 2017) (providing that suspension is appropriate when “a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client”). The record supports the panel’s findings of two aggravating circumstances (pattern of misconduct and illegal conduct) and six mitigating circumstances (absence of prior discipline, full and free disclosure to the disciplinary authority or cooperative attitude toward the proceeding, inexperience in the practice of law, chemical dependency, interim rehabilitation, and remorse). We agree with the panel’s conclusion that the mitigating circumstances warrant a downward deviation from an actual suspension to a stayed suspension. Considering all four factors, we conclude that the agreed-upon discipline is appropriate.


Accordingly, we hereby suspend attorney Nickolas S. Giorgione from the practice of law for 18 months, with the suspension stayed for 36 months from the date of this order subject to the conditions outlined in the conditional guilty plea agreement. Those conditions include the requirement that Giorgione (1) continue active participation in the medical treatment regimen prescribed by Alexander Imas, MD, or his successor; (2)

continue active participation in the mental health treatment regimen prescribed by Mark Chase, Ph.D., or his successor; (3) continue active participation in the AA/NA program; (4) obtain an attorney mentor; (5) have no direct handling or management authority of any client funds; and (6) engage in no professional misconduct. Giorgione shall also pay the costs of the disciplinary proceedings, including \$2,500 under SCR 120, within 30 days from the date of this order. The State Bar shall comply with SCR 121.1.

It is so ORDERED.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Bell

cc: Chair, Southern Nevada Disciplinary Board
Hofland & Tomsheck
Bar Counsel, State Bar of Nevada
Executive Director, State Bar of Nevada
Admissions Office, U.S. Supreme Court