

# bar counsel report

## SUPREME COURT OF NEVADA

**In re:** Paul E. Wommer  
**Bar No.:** 15  
**Docket No.:** 64253  
**Filed:** December 17, 2013

### ORDER OF TEMPORARY SUSPENSION AND REFERRAL TO DISCIPLINARY BOARD

*Attorney convicted of felony financial structuring temporarily suspended pending resolution of formal disciplinary proceedings.*

Bar counsel for the State Bar of Nevada has petitioned this court to enter an order temporarily suspending attorney Paul Wommer from the practice of law under SCR 111 and referring him to the appropriate board for discipline. The petition is supported by certified copies of the documents evidencing a guilty verdict against Wommer on April 13, 2013. Wommer was convicted in the United States District Court, District of Nevada, of three counts of structuring financial transactions in violation of 31 USC §§ 5324(a)(3), (d)(l), (d)(2) and 18 USC § 2, one count of tax evasion in violation of 26 USC §7201 and 18 USC § 2, and one count of making and subscribing a false return, statement or other document in violation of 26 U.S.C. § 7206 and 18 USC § 2. These are all felony convictions.<sup>1</sup> Wommer was sentenced to 41 months in prison to begin in November 2013. Additionally, he was assessed criminal monetary penalties totaling \$8,000 and was ordered to forfeit \$75,700.62, which was seized from a Nevada State Bank account.

Pursuant to SCR 111, temporary suspension and referral to the appropriate disciplinary board are mandatory when an attorney has been convicted of a "serious crime," which includes a felony. SCR 111(6)(8). Having reviewed the petition and the supporting documentation submitted by bar counsel, we conclude that the petition conclusively establishes Wommer's conviction of serious crimes warranting a temporary suspension. See SCR 111(1), (6), (7). Accordingly, we temporarily suspend Wommer from the practice of law and refer this matter to the Southern Nevada Disciplinary Board for the initiation of formal disciplinary proceedings in which the sole issue to be determined is the extent of discipline to be imposed. See SCR 111(8).

It is so ORDERED.

**In re:** Mehi Aholelei-Aonga  
**Bar No.:** 9743  
**Docket No.:** 61055  
**Filed:** December 6, 2013

### ORDER OF SUSPENSION

*Attorney suspended after failure to respond to state bar proceedings. Repayments of costs required for reinstatement.*

This is an automatic review, pursuant to SCR 105(3)(b), of a disciplinary board hearing panel's recommendation that

attorney Mehi Aholelei-Aonga be suspended from the practice of law for six months and one day. This matter arises primarily from Aholelei-Aonga's failure to respond to inquiries from the State Bar of Nevada.

#### *Factual background:*

Shantell and Michael Desmond sought legal representation from Attorney Debt Solutions (ADS), a debt management company with offices in Sacramento and Reno. Aholelei-Aonga was employed as counsel for ADS in Reno. She was assigned to assist the Desmonds with a bankruptcy and loan modification. While Aholelei-Aonga did successfully complete the bankruptcy, something went wrong with the loan modification. The record and pleadings are unclear as to whether the fault for the mishandled loan modification was that of Aholelei-Aonga or the Sacramento office of ADS.

The Desmonds filed a grievance against ADS, noting in their complaint that Aholelei-Aonga was their Reno contact. The state bar sent a letter of investigation to Aholelei-Aonga that went unanswered. A subsequent phone call to Aholelei-Aonga revealed that she thought the letters from the bar regarded dues payments, and since she did not have the money to pay them, she ignored the letters.<sup>2</sup> The state bar provided her a second chance to respond to the grievance, however she never took the opportunity to explain her side of the story regarding the Desmonds' accusations. After several months with no word from Aholelei-Aonga, disciplinary proceedings were instituted and the state bar mailed Aholelei-Aonga copies of the pleadings. She never responded to the pleadings and did not make an appearance at the disciplinary hearing.

#### *Rule violations and recommended discipline:*

When Aholelei-Aonga failed to respond to the state bar's verified complaint, the state bar notified her of its intent to proceed on a default basis. As such, a default hearing panel was convened on April 19, 2012, and the counts of the complaint were deemed admitted per SCR 105(2). Despite SCR 105(2), the hearing panel found that the complaint's allegations as to RPC 1.3 (diligence) and RPC 1.4 (communication) were not sufficiently clear to prove that Aholelei-Aonga, and not ADS as a company, was at fault. Thus they declined to rule on these violations. However, the panel did find that Aholelei-Aonga had violated RPC 8.1 (b) (bar admission and disciplinary matters) and expressed concern that Aholelei-Aonga failed to take advantage of the opportunity to present her side of the issue to the hearing panel and the state bar.

Accepting bar counsel's recommendation, the panel concluded that Aholelei-Aonga should be suspended for six months and one day and that she should repay the costs of the disciplinary proceedings. Because a suspension of that length necessarily requires that Aholelei-Aonga formally apply for reinstatement should she wish to practice again, see SCR 116(1), the hearing panel recommended, as a mandatory condition of reinstatement, that she be required to satisfactorily explain to the reinstatement hearing panel the events surrounding the Desmonds' grievance and why the instant matter should not preclude her from reinstatement. The panel noted that it took into account aggravating factors including:

SCR 102.5(a) (prior disciplinary offenses); 102.5(c) (pattern of misconduct); 102.5(e) (bad faith obstruction of disciplinary proceedings); and 102.5G) (indifference to making restitution).

**Analysis:**

Based on our review of the record, we agree with the panel's finding of misconduct as to RPC 8.1 (b) (bar admission and disciplinary matters), which is supported by clear and convincing evidence. See *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

We also agree with the hearing panel that there was insufficient proof to speculate that Aholelei-Aonga violated RPC 1.3 (diligence) and RPC 1.4 (communication). Thus, this court concludes that the state bar did not prove violations of RPC 1.3 (diligence) and RPC 1.4 (communication) by clear and convincing evidence. See SCR 105(2).

We approve the panel's recommendation that Aholelei-Aonga be suspended for six months and one day, and we conclude that this recommended discipline is appropriately tailored to Aholelei-Aonga's misconduct.<sup>3</sup> However, we reject the recommendation that Aholelei-Aonga explain her dealings with the Desmonds as a condition of reinstatement.

Accordingly, we hereby suspend Mehi Aholelei-Aonga from the practice of law for six months and one day. Aholelei-Aonga shall pay the costs of the disciplinary proceeding within 30 days of receipt of the state bar's bill of costs. SCR 120. Aholelei-Aonga may not be reinstated until such payment is made. In addition, Aholelei-Aonga shall comply with SCR 115. The state bar shall comply with SCR 121.1.

It is so ORDERED.

**In re: Alex B. Ghibaudo**  
**Bar No.: 10592**  
**Docket No.: 62670**  
**Filed: December 11, 2013**

**ORDER APPROVING CONDITIONAL GUILTY PLEA AND DENYING REINSTATEMENT TO THE PRACTICE OF LAW**

*Supreme Court approves plea for three-year suspension, plus conditions, retroactive to temporary suspension. Court rejects concurrent recommendation that attorney be reinstated, finding that attorney must repay the Client Security Fund prior to the court considering reinstatement.*

This is an automatic review; pursuant to SCR 113, of a Southern Nevada Disciplinary Board hearing panel's recommendation that we approve attorney Alex B. Ghibaudo's conditional guilty plea in exchange for a stated form of discipline. We also review the panel's recommendation that Ghibaudo be reinstated to the practice of law, subject to conditions. See SCR 116(1).

In July 2009, the state bar filed a complaint against Ghibaudo, alleging multiple counts of misconduct. Based

on this, Ghibaudo and the state bar jointly petitioned for Ghibaudo's temporary suspension. On August 7, 2009, this court entered an order temporarily suspending Ghibaudo from the practice of law. *In re Discipline of Ghibaudo*, Docket No. 54164 (Order of Temporary Suspension, August 7, 2009).

After Ghibaudo's temporary suspension, the state bar filed two additional complaints, one based on multiple misdemeanor convictions Ghibaudo self-reported to the state bar pursuant to SCR 111 and one including several additional client grievances. The three complaints were consolidated for a formal hearing in December 2012. Before the hearing, Ghibaudo entered into a conditional guilty plea with the state bar in exchange for a stated form of discipline.

In the conditional guilty plea, Ghibaudo agreed to a three-year suspension, retroactive to the August 7, 2009, date of his temporary suspension. He also agreed to pay the costs of the disciplinary proceeding, excluding bar counsel and staff salaries, within 30 days of receiving a memorandum of costs from the state bar, and to pay \$13,463 to the state bar's Client Security Fund.

Having accepted the conditional guilty plea, the panel next took evidence and heard witness testimony to consider Ghibaudo's fitness for reinstatement to the practice of law. Bar Counsel commenced these reinstatement proceedings because, at the time of the hearing, the three-year retroactive suspension period agreed to by the parties in the conditional guilty plea had already run. The panel found that Ghibaudo demonstrated, by clear and convincing evidence, that he has the moral qualifications, competency and learning in law required for admission to practice law and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar, to the administration of justice or to the public interest.

The panel recommended that Ghibaudo be reinstated, subject to a two-year probationary period, during which Ghibaudo shall:

1. Not practice as a solo practitioner;
2. Be mentored by a member of the state bar's TIP mentoring program;
3. Comply with all annual CLE requirements;
4. Continue his psychological and psychiatric treatment, including taking prescribed medication; and
5. Provide Bar Counsel with a relapse prevention plan, approved by a licensed healthcare professional, upon the completion of the probationary period.

Ghibaudo is also to stay out of trouble during the probationary period, with any infraction beyond a minor traffic violation resulting in revocation of the reinstatement.

**Conditional guilty plea:**

Based on our review of the record, we conclude that Ghibaudo committed the 35 violations of the Rules of Professional Conduct to which he pleaded guilty and we approve the stipulated discipline. See SCR 113(1). Ghibaudo is hereby disciplined as follows:

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1. Ghibaudo is suspended for three years, beginning August 7, 2009;
2. Ghibaudo must pay \$13,463 to the state bar's Client Security Fund, in a minimum amount of \$250 per month, increasing to \$350 per month upon his reinstatement to the practice of law, if any; and
3. Ghibaudo shall pay the costs of this disciplinary proceeding, not including bar counsel and staff salaries, within 30 days of receiving a memorandum of costs from the state bar.

#### Reinstatement:

Under SCR 116(2), an attorney seeking reinstatement must:

demonstrat[e] by clear and convincing evidence that he or she has the moral qualifications, competency, and learning in law required for admission to practice law in this state, and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar, to the administration of justice or to the public interest.

Having reviewed the record, we conclude that the panel's finding that Ghibaudo's reinstatement "will not be detrimental to the integrity and standing of the bar, to the administration of justice or to the public interest," is not supported by clear and convincing evidence. SCR 116(2). Ghibaudo's misconduct led several clients to seek recompense from the state bar's Client Security Fund, and this court will not consider reinstatement until Ghibaudo has repaid all of the money owed to the Client Security Fund. We therefore reject the panel's recommendation that Ghibaudo be reinstated and deny reinstatement at this time.

It is so ORDERED.

CHERRY, J., concurring in part and dissenting in part:

I concur with the determination that the conditional guilty plea should be approved, but I would also approve reinstatement as recommended by the disciplinary panel. ■

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1. In accordance with SCR 111(2), Wommer self-reported his conviction to bar counsel in May 2013.
  2. Aholelei-Aonga is already under administrative suspension for failure to pay bar dues and fees and for failure to complete Continuing Legal Education requirements.
  3. The suspension in this matter is separate from, and in addition to, Aholelei-Aonga's existing bar dues and CLE suspensions. The suspension in the instant matter will not commence until after Aholelei-Aonga resolves her bar dues and CLE matters. See SCR 98; SCR 213.

## DISCIPLINE KEY

*Resignation with charges pending:* SCR 98(5)(b)  
*Types of possible discipline listed generally:* SCR 102  
*Attorneys convicted of crimes:* SCR 111  
*Conditional guilty plea agreements (discipline by consent):* SCR 113  
*Reciprocal discipline:* SCR 114  
*Disbarred/Suspended attorneys:* SCR 115  
*Reinstatement:* SCR 116  
*Disability Inactive:* SCR 117

Supreme Court Rules (SCRs):

[www.leg.state.nv.us/CourtRules/SCR.html](http://www.leg.state.nv.us/CourtRules/SCR.html)

**DISBARMENT** – License to practice revoked.

**SUSPENSION** – License suspended for a time certain, ineligible to practice. More than six months requires petition for reinstatement and court order.

**DISABILITY INACTIVE** – Ineligible to practice until further order of the court. In the interim, disciplinary proceedings held in abeyance.

**INTERIM TEMPORARY SUSPENSION** – Interim suspension based on showing of a substantial threat of serious harm to the public, in effect until further court order, usually after hearing.

**RESIGNATION WITH CHARGES PENDING** – Ineligible to practice. Requires Bar Counsel approval. Resignation is irrevocable, with readmission only possible upon application as a new admittee.

**PUBLIC REPRIMAND** – Misconduct found and public censure issued, including attorney's name and the underlying facts and charges. Published in *Nevada Lawyer* and made available to the press. Remains eligible to practice law.

**LETTER OF REPRIMAND** – Lowest level of discipline. Not published, but disclosed upon request under the new rules. May also include up to a \$1,000 fine and restitution. Remains eligible to practice.

**ADMINISTRATIVE SUSPENSION** – Attorneys may be administratively suspended for failure to pay bar fees (SCR 98(12)), and/or for failure to complete and report the required Continuing Legal Education hours (SCR 212). While these **are not disciplinary suspensions**, the attorney is **ineligible to practice law** until the deficiency is remedied and the procedures to transfer back to active status completed as set forth in the applicable rules.