

bar counsel report

SUPREME COURT OF NEVADA

In re: Marina E. Kolias
Docket No.: 62783
Filed: July 24, 2013

ORDER OF TEMPORARY SUSPENSION

Attorney temporarily suspended from the practice of law for failure to safekeep funds.

This is a joint petition by the state bar, through the Southern Nevada Disciplinary Board, and attorney Marina E. Kolias for an order temporarily suspending Kolas from the practice of law, pending the resolution of formal disciplinary proceedings against her. The petition and supporting documentation demonstrate that Kolas has failed to safekeep funds in numerous instances.

SCR 102(4)(a) provides, in pertinent part:
 On the petition of a disciplinary board, signed by its chair or vice chair, supported by an affidavit alleging facts personally known to affiant, which shows that an attorney appears to be posing a substantial threat of serious harm to the public, the Supreme Court may order, with notice as the court may prescribe, the attorney's immediate temporary suspension or may impose other conditions upon the attorney's practice.

In addition, SCR 102(4)(b) provides that we may place restrictions on an attorney's handling of funds.

We conclude that the documentation before us demonstrates that Kolas poses a substantial threat of serious harm to the public, and that her immediate temporary suspension is warranted under SCR 102(4)(a). Accordingly, we hereby order attorney Marina E Kolas temporarily suspended from the practice of law pending the resolution of formal disciplinary proceedings against her.

We further conclude that Kolas' handling of funds should be restricted. Accordingly, pursuant to SCR 102(4)(a), (b), and (c), we impose upon Kolas the following conditions:

1. Kolas is precluded from accepting new cases and is precluded from continuing to represent existing clients, effective immediately upon service of this order;
2. All proceeds from Kolas' practice of law and all fees and other funds received from, or on behalf of, her clients shall, from the date of service of this order, be deposited into a trust account from which no withdrawals may be made by Kolas except upon written approval of Bar Counsel; and
3. Kolas is prohibited from withdrawing any funds from any and all accounts in any way relating to her law practice, but not limited to her general and trust accounts, except upon written approval of Bar Counsel.

The state bar shall immediately serve Kolas with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Kolas' place of employment or residence or by publication.¹ Kolas shall comply with the provisions of SCR 116.

It is so ORDERED.

In re: Ian Christopherson
Docket No.: 62985
Filed: July 24, 2013

ORDER OF TEMPORARY SUSPENSION

Attorney temporarily suspended from the practice of law following criminal conviction of tax evasion.

Bar Counsel for the State Bar of Nevada has petitioned this court to enter an order temporarily suspending attorney Ian Christopherson from the practice of law under SCR 111. The petition is supported by certified copies of documents evidencing a guilty verdict against Christopherson on September 23, 2011. Christopherson was convicted in the United States District Court, District of Nevada, of one count of income tax evasion and one count of employment tax evasion, both felonies under 26 USC § 7201.² Christopherson was sentenced to 33 months in prison and is currently serving his sentence in a federal prison in California. Additionally, Christopherson is required to pay the Internal Revenue Service \$728,786.14.

Having reviewed the petition and the supporting documentation submitted by Bar Counsel, we conclude the petition conclusively establishes Christopherson's conviction of serious crimes warranting a temporary suspension.³ See SCR 111(1), (6), (7). Accordingly, we temporarily suspend Christopherson 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: Charles C. Lobello
Docket No.: 63040
Filed: July 29, 2013

ORDER OF TEMPORARY SUSPENSION AND REFERRAL TO DISCIPLINARY BOARD

Attorney temporarily suspended from the practice of law following a conviction of tax evasion.

This is a petition, pursuant to SCR 111(4), by Bar Counsel based on attorney Charles C. Lobello's conviction, pursuant to a guilty plea, of one count of tax evasion, a felony. See 26 USC § 7201. Lobello informed bar counsel of his conviction.⁴ See SCR 111 (2).

When an attorney has been convicted of a serious crime, SCR 111 provides that this court shall enter an order suspending that attorney. See SCR 111(7). A felony is explicitly a "serious crime" under SCR 111, and a guilty plea constitutes a "conviction." SCR 111(1), (6). Lobello pleaded guilty to a felony, and has therefore been convicted of a serious crime for purposes of SCR 111.

Accordingly, we temporarily suspend Lobello 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(7), (8).

It is so ORDERED.

bar counsel report

In re: Martin G. Crowley
Docket No.: 59895
Filed: July 22, 2013

ORDER OF SUSPENSION

Attorney suspended from the practice of law for six months and a day, with conditions, after entering into an improper business arrangement with a client.

This is an automatic review, pursuant to SCR 105(3)(b), of a disciplinary board hearing panel's recommendation that attorney Martin G. Crowley be suspended from the practice of law for one year. This matter arises from Crowley's improper business relationship with a client.

Factual background:

Floyd Edgemon sought Crowley's assistance with a probate matter. Edgemon's longtime partner had passed away, leaving a house, titled in only her name, that Edgemon continued to live in. This property constituted the bulk of the partner's estate. Edgemon informed Crowley that the property was in foreclosure with a trustee's sale imminent.

Based on this, Crowley offered the assistance of Moroni Corporate Investments International, Inc. (MCI). Crowley is an officer and shareholder of MCI. Crowley drafted an agreement whereby MCI would bring the loan current and take over payments on the property pending its sale. Crowley, acting as attorney for MCI and the estate of Edgemon's deceased partner failed to inform Edgemon that he should have an independent attorney review the agreement before signing it. Edgemon entered into this agreement without a full understanding of Crowley's relationship to MCI.

The agreement contemplated the sale of the house, with the estate and MCI sharing equally in any proceeds. Further, the agreement provided that any payments made by MCI would constitute a claim against the estate. MCI began making payments in accordance with the agreement and Crowley successfully had Edgemon appointed administrator of the estate. MCI made payments until insurance on the property lapsed. At that time, the mortgage company instituted its own insurance policy and raised the mortgage payment to cover its cost. MCI opted not to pay this higher monthly amount and stopped making the mortgage payments.

Relations between Edgemon and Crowley deteriorated, and Edgemon retained new counsel. Meanwhile, the house entered foreclosure and went to a trustee's sale. At the sale, Crowley bid on the property on behalf of MCI, allegedly in order to inflate the property's selling price. MCI ended up as the winning bidder. In the months after purchasing the house, MCI began eviction proceedings against Edgemon. Edgemon, through new counsel, filed a civil suit against Crowley for breach of fiduciary duty and other causes of action. The district court entered a judgment against Crowley, and this court affirmed the district court's decision on appeal.

Rule violations and recommended discipline:

At the conclusion of the hearing, the panel found unanimously that Crowley violated RPC 1.7 (conflict of interest: current clients), RPC 1.8 (conflict of interest: current clients: specific rules), and RPC 8.4 (misconduct). The panel recommended that Crowley be suspended for one year and that he pay the costs of the disciplinary proceedings.

Based on our review of the record, we conclude that the panel's findings of misconduct are supported by clear and convincing evidence. See *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). We therefore approve the panel's recommendation that Crowley be suspended. However, we determine that a suspension of six months and one day with conditions is more appropriately tailored to Crowley's misconduct. We therefore reject the recommended suspension term of one

year and instead direct that Crowley be suspended for six months and one day, with the conditions that:

1. Within 30 days of receipt of the state bar's bill of costs, Crowley shall pay the costs of the disciplinary proceeding, SCR 120;
2. Prior to petitioning for reinstatement, see SCR 116, Crowley must pay any judgment amount that remains outstanding from the civil action filed by Edgemon against Moroni Corporate Investments; and
3. If reinstated, Crowley shall be subject to a two-year probationary period. During the probationary period, Crowley shall refrain from entering into business arrangements with clients of his law practice and shall be supervised by a mentor approved by the state bar, and the mentor shall make quarterly written reports to bar counsel regarding Crowley's law practice.

Accordingly, we hereby suspend Martin G. Crowley from the practice of law for six months and one day from the date of this order. In addition, Crowley shall comply with the conditions stated above and with SCR 115. The state bar shall comply with SCR 121.1.

It is so ORDERED.

RESIGNATIONS

(VOLUNTARY, NO DISCIPLINE PENDING)

S.C.R. 98(5)(a) states:

Any member of the state bar who is not actively engaged in the practice of law in this state, upon written application on a form approved by the state bar, may resign from membership in the state bar if the member: (1) has no discipline, fee dispute arbitration, or clients' security fund matters pending and (2) is current on all membership fee payments and other financial commitments relating to the member's practice of law in Nevada. Such resignation shall become effective when filed with the state bar, accepted by the Board of Governors, and approved by the Supreme Court.

The following members resigned pursuant to this Rule:

H. Christian Bode

Bar No. 5224 Order 63013 Filed 7/22/13

Richard S. Ralston

Bar No. 9420 Order 63012 Filed 7/22/13

NORTHERN NEVADA DISCIPLINARY BOARD

PUBLIC REPRIMAND

In re: James Adams
Bar No.: 6874
File No.: NG11-1515
Filed: March 28, 2013

Public Reprimand imposed on attorney who assisted in the unauthorized practice of law by lending name and brief support to enterprise run by non-Nevada lawyer.

In February, 2011, you were approached by an out-of-state attorney who represented to you that he was the director of a non-profit, Nevada, multi-jurisdictional law firm (Law Firm) which purportedly practiced primarily in the area of assisting struggling homeowners regarding their troubled mortgages. In March of 2011,

you met with the attorney. The out-of-state attorney represented to you that the Law Firm had a number of existing clients that were aggrieved by the national mortgage banking company and that they would be candidates as plaintiffs for the multi-joinder litigation. You were aware that the out-of-state attorney was not licensed to practice law in the state of Nevada.

From March through July of 2011, you contemplated forming a co-counsel relationship with the Law Firm and drafted a complaint for fraud and negligence against a national mortgage banking firm. The complaint was not a multi-joinder action, but an action identifying only two plaintiffs, both of whom were clients of your law firm.

The Law Firm posted a copy of your complaint on its website and showed it to homeowners seeking legal assistance regarding their mortgage. You permitted the Law Firm to show the complaint to its clients. Unbeknownst to you, the out-of-state attorney and the Law Firm used the complaint to induce homeowners to pay to the Law Firm up-front fees and continuing monthly fees. It was explained to the homeowners by the Law Firm that the fees were to pay for the ongoing expenses associated with a "multi-joinder" litigation in which the homeowners understood they would be named as a plaintiff. In fact, the representations of the Law Firm to its clients were false. The homeowners were never included as plaintiffs in any multi-joinder lawsuit, yet the Law Firm charged and retained legal fees anyway.

The out of state attorney was not authorized to practice law in Nevada. By your conduct, you assisted the out-of-state attorney in engaging in the unauthorized practice of law in the state of Nevada. You failed to conduct an adequate inquiry into the legal status of the out-of-state attorney or the activities of the Law Firm. Therefore, you have violated Nevada Rules of Professional Conduct 5.5(a)(2) which states, "A lawyer shall not... Assist another person in the unauthorized practice of law." For this violation you have accepted responsibility.

The Law Firm, without your consent, identified you on its fee agreement as "of counsel." You discontinued your anticipated association with the Law Firm as soon as you became aware of the Law Firm's questionable practices and at the same time, demanded that your name be removed from their agreements.

In mitigation, it is understood that the out-of-state attorney and his non-attorney associates created a false appearance of legitimacy. The state bar's investigation did not produce any evidence that you or your law firm profited from the activities of the out-of-state attorney or the Law Firm. You have cooperated with the state bar's investigation. You have satisfied the state bar and the committee that you will be more cautious in the future.

In a time such as this, when many people have been financially injured by a severe economic downturn, it is incumbent upon attorneys to be ever vigilant of those who may not be well intentioned, and who may seek to harm the least advantaged among us.

Every lawyer is responsible for observance of the Rules of Professional Conduct. Neglect of even the least of these responsibilities, and those unintended consequences occasioned therefrom, may compromise the independence of the profession and the public which it serves.

In light of the foregoing, you have violated Nevada Rules of Professional Conduct 5.5(a)(2) (assisting in the unauthorized practice of law) and are hereby PUBLICLY REPRIMANDED.

The Formal Panel directed that you complete three ethics credits each year for a period of five years. ■

of an attorney that violate rules of the Supreme Court are misconduct and constitute grounds for discipline).

- Christopherson has filed a letter indicating that he does not oppose a temporary suspension "pending resolution of [his] appeal." The letter also appears to briefly address the merits of Christopherson's federal appeal and express difficulties he is having addressing his legal matters from prison. To the extent that Christopherson's letter requests any relief related to his federal appeal or his incarceration, we note that this proceeding is not the appropriate forum to address such concerns, and we will take no further action with respect to the letter filed June 5, 2013.
- Lobello pleaded guilty to the count of tax evasion in July 2012, which constitutes a "conviction" under SCR 111(1). He did not inform the state bar until December 2012, which constitutes untimely reporting under SCR 111(2).

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

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 Council 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.

- When served on either Kolia, or a depository in which she maintains an account, this order shall constitute an injunction against withdrawal of the proceeds except in accordance with the terms of this order. See SCR 102(4)(b).
- Christopherson failed to report his conviction to bar counsel pursuant to SCR 111(2), which itself could be construed as an act of misconduct constituting grounds for discipline. See SCR 101 (acts or omissions