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SUPREME COURT OF NEVADA

In re: Stanley Steiber
Bar No: 2795
Docket No: 53426
Filed: March 3, 2010

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT AND ADDENDUM

Eighteen-month suspension and additional conditions warranted where attorney failed to act with diligence and adequately communicate with clients, and also failed to respond to bar counsel.

This is an automatic review of a Northern Nevada Disciplinary Board hearing panel's recommendation that we approve, pursuant to SCR 113, a conditional guilty plea and addendum thereto in exchange for a stated form of discipline for attorney Stanley Steiber.¹ Under the agreement, Steiber admitted to one violation of RPC 1.16(a) (Declining or Terminating Representation), five violations of RPC 1.3 (Diligence), five violations of RPC 1.4 (Communication), and eight violations of RPC 8.1 (Bar Admission and Disciplinary Matters).

The agreement and addendum provide for an 18-month suspension to run from February 8, 2008, the date on which Steiber was temporarily suspended from the practice of law pending resolution of these proceedings. In addition, the agreement and addendum provide that prior to applying for reinstatement, Steiber must: (1) undergo a complete psychiatric evaluation to determine his fitness to practice law and must undertake and complete the suggested treatment arising from this evaluation; (2) retake and pass the ethics portion of the bar exam (the Multistate Professional Responsibility Examination); and (3) by August 8, 2011, pay restitution to former clients totaling \$12,200, as set forth in the addendum² and pay the actual costs of the disciplinary proceedings. Additionally, to the extent that Lawyers Concerned for Lawyers (LCL) assists with the financial obligations arising from the psychiatric evaluation, provisions for Steiber to repay LCL shall be addressed at any reinstatement hearing. Finally, if Steiber is reinstated to practice law, he must enroll in the bar's mentoring program for at least one year.

At the hearing, Steiber testified concerning overwhelming personal problems that he experienced from approximately April 2006 through late 2007 and their effect on his law practice. Prior to these personal problems,

Steiber had received no discipline since his admission to the bar in 1986. The hearing panel requested modification of the guilty plea agreement entered into by bar counsel and Steiber, to extend his suspension from 12 to 18 months and to impose additional conditions.

The hearing panel had the benefit of seeing and hearing the testimony. We review only the written record. Based on our review of that record, we conclude that the plea agreement and addendum, as established after enhancement by the hearing panel, should be approved. See SCR 113(1). Accordingly, we approve Steiber's already-served suspension from the practice of law for 18 months, effective February 8, 2008. We further direct that he shall comply with the conditions in the agreement and addendum prior to applying for reinstatement pursuant to SCR 116. The parties shall, in addition, comply with the applicable provisions of SCR 115 and SCR 121.1.

SOUTHERN NEVADA DISCIPLINARY BOARD

LETTERS OF (PRIVATE) REPRIMAND

Case No: 09-134-1965
Issued: February 12, 2010

Letter of reprimand warranted where attorney failed to respond to the State Bar of Nevada after numerous inquiries. Fine of \$500 and costs were also imposed.

Client submitted his grievance to the State Bar of Nevada on March 23, 2009, stating that Attorney was non-responsive to his telephone calls.

The state bar sent Attorney four letters, via regular and certified mail, dated March 25, April 17, May 6 and May 29, 2009, requesting that Attorney contact Client and respond to this grievance. Attorney failed to respond.

As a last effort to obtain Attorney's response prior to this matter being screened, on June 22, 2009, a state bar investigator contacted Attorney personally via telephone regarding her lack of responses to the state bar. Attorney informed the investigator that she had provided Client with his file but that Attorney would provide a written response within a week. However, Attorney again failed to provide a response and the matter was screened on August 11, 2009, and voted for a formal hearing primarily because of Attorney's lack of response. Indeed, Attorney had, in fact, given Client his complete client file on or about March 23, 2009. Thus, this entire matter could have been avoided if

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Attorney had simply fulfilled her duty to respond to the state bar's repeated inquiries.

Based upon the foregoing, Attorney was **REPRIMANDED** for violation of RPC 8.1 (b) (Bar Admission and Disciplinary Matters), fined \$500 and assessed the costs of the disciplinary proceedings.

File No.: 09-170-2689
Issued: October 5, 2009

Letter of reprimand imposed for failure to promptly disburse settlement funds.

Law Firm represented Client in a personal injury matter wherein Client sustained \$103,000 in medical liens. This discipline file is with respect to the conduct of the Supervising Attorney.

On March 2, 2009, at a mandatory settlement conference the matter was settled for \$100,000. During this conference, Associate Attorney of the Law Firm acknowledged on the record that the Law Firm would be responsible for satisfying all medical liens. The Law Firm picked up the settlement check from Defense Counsel on March 17, 2009.

On April 1, 2009, Defense Counsel received a telephone call from a lienholder indicating that Associate Attorney and/or the Law Firm were refusing to pay a medical lien. On April 1, 2009, the lienholder's attorney also sent a letter to Associate Attorney informing him that an interpleader would be filed if the lien was not paid.

On March 23, 2009, the Law Firm issued a check to Client for \$63,211.83 without paying medical liens as promised to the court.

On April 6, 2009, the Law Firm filed a motion for temporary restraining order and Motion for Preliminary Injunction against the Client. The motion requested that the court enjoin the Law Firm's own client from withdrawing funds until the medical liens were satisfied. The motion indicated that depositions were taken of several treating physicians who testified that not all the medical treatment was related to the accident.

In the motion, the Law Firm represented that Client indicated that he would not agree to settle the case until he was allowed to assume personal responsibility for the 17 liens. On March 23, 2009, Client signed an agreement indicating that he would bear sole responsibility and would hold the Law Firm harmless from the medical liens.

Associate Attorney informed the State Bar of Nevada that the settlement was distributed because none of the orthopedic surgeons who treated the client related the care to his injuries. The language of the liens stated that the liens

were for medical care related to the injuries. Supervising Attorney stated that once it was discovered that lien in question had different language, this lien was satisfied by the Law Firm.

According to the transcripts of the doctors who treated Client, the surgery Client received could not be applied to the personal injuries with any degree of medical certainty. However, there were 17 liens and not all the medical providers were deposed to apportion their lien to the personal injury.

Associate Attorney informed the state bar that when it was learned the care was not related, the Law Firm was put in a "very precarious situation" because it would be "unethical for us to pay medical bills or debts from settlement proceeds that are not related to the injuries that they suffered from the accident..."

Supervising Attorney stated that following discovery, the medical care was unrelated to the accident, Supervising Attorney had two options: (1) interplead the bills since much of the billing was unrelated or (2) pay the related portion with Client agreeing to satisfy all the unrelated bills.

Supervising Attorney stated that, based upon the information Associate Attorney provided him, option 2 was the most viable option available. Supervising Attorney acknowledged that he failed to review the lien, which stated that counsel was responsible no matter what.

Once the mistake was discovered, Supervising Attorney attempted to reach Client to work out an arrangement but could not contact him. A complaint and motion was then filed with the court. In the meantime, the lienholder accepted a reduction of their lien, which was paid by Law Firm on April 16, 2009.

Supervising Attorney was **REPRIMANDED** for violation of RPC 1.15 (Safekeeping Property), and RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Law).

File No. 08-104-2335

Letter of reprimand warranted for failure to supervise non-lawyer staff.

In February 2008, Client complained to the State Bar of Nevada that a Law Clerk had presented himself as a licensed Nevada attorney. The Law Clerk is only licensed to practice law in Connecticut, where he was admitted on June 16, 2006.

Client claimed that she did not discover that the Law Clerk was not licensed in Nevada until December 7, 2007, during her personal injury trial. Client claimed that Attorney was uninformed with the matter until the day before her trial.

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Client claimed that she initially went to Attorney's office and met with Law Clerk on August 18, 2005, and retained the Law Clerk at that time. In regard to this allegation, Client provided the state bar with a retainer agreement that was signed by Client, with the attorney signature line left blank.

Client also provided a copy of her deposition transcript from July 17, 2006, which noted that the Law Clerk was present. The transcript also indicated that Attorney was in attendance. Neither Attorney nor Law Clerk spoke while Client was being questioned. Once the questioning was completed, Attorney was asked how to handle the transcript, to which Attorney responded "Do you want to read and sign?" Client replied, "Whatever you guys want me to do." The transcript indicated that Law Clerk then said, "She'll read and sign. We don't want a copy."

On September 6, 2006, Law Clerk sent a letter to a doctor wherein he confirmed their earlier conversation and requested certain reports and documentation. Law Clerk signed the letter as "Esq." The letter contained no disclaimer that Law Clerk was only licensed to practice law in Connecticut.

The state bar was also provided with a copy of a facsimile Attorney sent to defense counsel, wherein Attorney concluded the correspondence by stating that "If you have any questions, please do not hesitate to contact my office. In the event I am not in the office, you may speak to Law Clerk in the litigation department." Again, the correspondence contained no disclaimer that Law Clerk was only licensed in Connecticut.

Client's letter to the state bar attached pleadings she allegedly learned of after the conclusion of her matter. On June 8, 2007, the judge pro tempore entered an order denying association of foreign counsel. Attorney's motion sought to associate Law Clerk into the case as foreign counsel, although Law Clerk resides in Nevada. However, the motion itself was not filed with the court.

In denying the motion, the court noted that Attorney had not even "made the most modest attempt to comply with Supreme Court Rule 42. Counsel did not file an application with the Nevada bar, did not pay the required fees, did not fill out the Affidavit with the appropriate disclosures, and 'local' counsel did not accept the responsibilities under the Rules." The court also noted that the motion was denied with prejudice.

This order also noted that Attorney had failed to attend the mandatory conference and had failed to provide required documentation to the trial court. As such, the court had restricted the Plaintiff's right to discovery. However, Attorney was later able to obtain discovery with the court's permission.

On August 14, 2007, ADR Commissioner Chris Beecroft sent Attorney a letter indicating that the motion entitled "Request for Removal from Short Trial Program" was untimely and questioned Attorney's citation of NSTR 5(a) as Attorney had indicated that the rule permitted "removal for cause." The opposition to the motion also noted that Attorney was citing to rules that did not exist, were inapplicable, or outdated. The District Court later denied the motion as being "improperly and untimely filed."

Attorney's response to the state bar noted that Attorney had obtained a favorable workers' compensation judgment on Client's behalf after seven previous attorneys had declined to accept her case. As such, she asked Attorney's office to represent her regarding the personal injury case. Attorney's response included several attachments, including documentation regarding the initial arbitration award in Client's matter, wherein it was noted that Attorney was present along with Client and Law Clerk.

Attorney acknowledged that Law Clerk assisted him in regard to Client's case, as well as numerous other litigation matters. Attorney stated that he supervised all of these cases. Attorney also stated that he personally met with Client before every hearing in both matters and prior to all decisions concerning the direction of her case.

Attorney indicated, however, that Client and Law Clerk were personal friends and therefore she did not request any additional meetings with Attorney outside of preparing for hearings and trial as she would otherwise discuss the case with Law Clerk.

In regard to Law Clerk's correspondence to the doctor, Attorney indicated that Law Clerk was reprimanded for sending the letter. Attorney's response attached a blank letterhead stationery that Law Clerk was supposed to have used instead, as this form indicated that Law Clerk was licensed only in Connecticut. As to Attorney's facsimile to defense counsel, Attorney noted that, despite the facsimile listing "Esq." after Law Clerk's name, defense counsel was aware that Law Clerk was not licensed to practice law in Nevada.

Attorney acknowledged that the "Request for Removal from Short Trial Program" was untimely. However, Attorney noted the reason underlying the request, which was that Client's April 2007 spinal surgery which cost \$80,000, occurred after the January 2007 deadline for requesting removal had passed. As such, Attorney sought to have Client's matter removed, albeit unsuccessfully, as the alleged damages now exceeded the \$50,000 limit of the Short Trial Program.

Attorney claimed that, in regard to Client's trial, she had been offered \$50,000, which, as noted above, was

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the jurisdictional limit of the Short Trial Program. However, Client rejected the offer and subsequently lost at trial. Attorney stated that, as a result, Client had refocused her anger on Attorney for the jury's verdict.

In July 2005, Attorney received a letter of private reprimand for violating then-SCR 187 (Supervision of Nonlawyer Assistants), SCR 189 (Unauthorized Practice of Law) and SCR 195 (Communications Concerning a Lawyer's Services). The reprimand involved Law Clerk's father, who was also employed by Attorney, engaging in the unauthorized practice of law by issuing settlement demands on personal injury matters and Attorney listing his nonlegal staff as "associates."

Attorney was hereby **REPRIMANDED** for having violated Rule of Professional Conduct ("RPC") 1.1 (Competence), RPC 5.3 (Supervision of Nonlawyer Assistants) and 5.5 (Unauthorized Practice of Law). ■

1. Steiber was temporarily suspended from the practice of law pending resolution of these disciplinary proceedings on February 8, 2008. See *In re: Discipline of Stanley Steiber*, Docket No. 50996 (Order of Temporary Suspension, February 8, 2008).
2. Steiber must pay \$4,700 to Raymond Fuller; \$2,500 to Arthur Walsh, \$2,000 to Marion Morreale; \$1,500 to Peter and Dora Alberro; and \$1,500 to Pamela Bell.

In the February, 2010 issue of *Nevada Lawyer*, we published an item regarding docket number 54669, ordering temporary suspension of Douglas H. Clark, bar number 4566. Please note that Douglas H. Clark had an office on Torrey Pines in Las Vegas, and should not be confused with other bar members with similar names, including J. Douglas Clark, bar number 639, whose office is located on West Plumb Lane in Reno.

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 6 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.