

# bar counsel report

## SUPREME COURT OF NEVADA

**In re:** Stephen Hackett  
**Bar No.:** 5010  
**Docket No.:** 55358  
**Filed:** February 9, 2011

### ORDER OF REINSTATEMENT

#### *Attorney reinstated from disability inactive status.*

This is a petition for reinstatement from disability inactive status by attorney Stephen Hackett. On January 23, 2004, this court transferred Hackett to disability inactive status. See *In re: Disability of Hackett*, Docket No. 42434 (Order of Transfer to Disability Inactive Status, January 23, 2004). A hearing was held before a panel of the Southern Nevada Disciplinary Board. The record of the hearing panel's proceedings has been filed with this court.

The hearing panel found that Hackett demonstrated by clear and convincing evidence that his disability has been removed and that he is fit to resume the practice of law. See SCR 117(4), (5). The hearing panel has recommended that Hackett be reinstated, subject to the following conditions: (1) Hackett shall take and pass the Nevada Bar Examination, essay portion only; (2) Hackett shall take and pass the Multi-State Professional Responsibility Examination (MPRE); and (3) Hackett shall disclose to all future employers in the legal profession that he was transferred to disability inactive status due to a gambling addiction. The panel further recommended that Hackett pay the costs of the reinstatement proceedings.

We conclude that clear and convincing evidence supports the panel's finding that Hackett's disability has been removed, and that he is fit to resume the practice of law (SCR 117(4)). We further agree with the conditions recommended by the panel.<sup>1</sup> Accordingly, Hackett is reinstated to the practice of law, subject to the conditions set forth above. Hackett shall pay the costs of the reinstatement proceedings within 30 days of the date of this order.<sup>2</sup>

## SOUTHERN NEVADA DISCIPLINARY BOARD

### PUBLIC REPRIMAND

**In re:** Gregory H. Cortese  
**Bar No.:** 6610  
**File No.:** 09-234-3382  
**Filed:** January 28, 2011

#### *Public Reprimand imposed for lack of diligence in expediting a civil matter.*

Gregory Cortese represented Angela Stabile (Stabile), among other defendants, in a lawsuit arising from a contract dispute with Marla Gomes (Plaintiff), who claimed to be an investor in Stabile's shows "X" and the "Men of X." The state bar is informed and believes that Plaintiff signed a one-page contract with Stabile and her company, under the terms of

which Plaintiff would invest \$150,000 in the production of the shows in exchange for 10 percent of the profits to be paid on a monthly basis.

On August 7, 2006, Plaintiff filed a lawsuit for breach of contract against Stabile in the Eighth Judicial District Court, styled *Marla Plaintiff v. 3rd Wish Entertainment, LLC, Angela Sampras, et al.*, Case No. A526081. On October 18, 2006, Cortese filed a counterclaim.

Cortese failed to communicate to his clients an Offer of Judgment served upon him by Plaintiff on or about October 2006.

On November 14, 2006, Plaintiff moved to dismiss the counterclaim pursuant to NRS 41.660, Nevada's "anti-SLAPP" statute, and moved for sanctions pursuant to NRS 41.670. On December 14, 2006, Cortese filed an Opposition to Plaintiff's Motion to Dismiss.

At a hearing on December 21, 2006, the court granted Plaintiff's motion and awarded her attorney fees and costs in the amount of \$7,786. Cortese failed to inform his clients of the award of sanctions and did not pay the sanctions.

Nearly a year later, on September 26, 2007, Plaintiff's counsel sent a letter to Cortese regarding the unpaid sanctions. He failed to respond. On October 11, 2007, Plaintiff's counsel filed an application for Order to Show Cause as to why Defendants should not be held in contempt and sanctioned for failing to pay the court-ordered fees and costs.

On October 25, 2007, the court entered its Notice of Hearing Regarding Order to Show Cause set for November 29, 2007. Although Cortese was aware of the Plaintiff's filing and the hearing date, he failed to file a written opposition to Plaintiff's Application for Order to Show Cause and failed to appear at the November 29, 2007, hearing.

The court ordered Defendants to pay the sanctions within 15 days. The order specifically stated that if the sanctions were not paid within the 15 days, Defendants would be subject to additional sanctions, including, but not limited to awarding additional attorney fees and costs and the striking of Defendants' answers.

Cortese failed to inform his clients of the motion and hearing on the Order to Show Cause or the court's order that the sanctions be paid within 15 days of the order. The sanctions were not paid.

Defendants also were sanctioned during a November 19, 2007, hearing in which the Discovery Commissioner found that their discovery responses were inadequate and, therefore, granted Plaintiff's Motion to Compel. During this hearing, Defendants were sanctioned \$250 and ordered to provide adequate discovery responses.

Cortese failed to inform his clients of these sanctions or the need to provide adequate discovery responses. He failed to ensure that the adequate discovery responses were provided or that the \$250 sanction was paid.

Considered as part of his inadequate response to discovery during the November 19 hearing, were missed depositions of his clients and two nonparty witnesses for whom he had accepted service of the deposition subpoenas. Plaintiff had scheduled depositions to take place from October 23 through October 26, 2007.

On October 14, 2007, Cortese sent a fax to Plaintiff's counsel requesting that the depositions be rescheduled. In the fax, he also asked that Plaintiff's counsel contact him by October 15, 2007, in order to discuss possible settlement

of the case. He provided a copy of the fax and fax receipt in his response to the state bar. There is no indication that he spoke to opposing counsel on October 15 or made other arrangements to address the pending depositions or inform his clients or the other witnesses of the pending depositions or ensure their attendance.

A status check hearing was held on January 28, 2008. The Discovery Commissioner found that Defendants still had not provided adequate discovery responses as previously ordered nor had Defendants paid the prior sanction. The commissioner recommended that all Defendants' answers be stricken for failure to comply and failure to participate. Further, Cortese was sanctioned personally an additional \$100 for failing to appear at the January 28, 2008, hearing.

Cortese failed to inform his clients of the Discovery Commissioner's recommendations to strike their answer or the effects of such a terminating sanction on their case.

He failed to file a timely objection, and the District Court adopted and entered the Discovery Commissioner's Report and Recommendations on March 5, 2008. Cortese failed to inform his clients of the District Court's entry of the order or its effect on their case.

On March 6, 2008, Plaintiff filed an application for entry of default against Defendants, which the clerk entered on or about March 10, 2008. Cortese failed to inform his clients of the entry of default.

Plaintiff moved to strike Defendants' remaining counterclaim. Following a hearing on May 22, 2008, the court ordered Defendants to appear at their depositions the following week. Cortese failed to inform his clients of the court's order or to ensure his clients' appearance.

A hearing on Plaintiff's Application for Default Judgment was held on January 15, 2009. Cortese failed to file a written response to the application. The hearing minutes indicate that he did appear at this hearing, but was not allowed to participate due to facts and circumstances of the case.

Cortese failed to inform his clients of the hearing or the pending Application for Default or the court's order granting the application.

An order granting Plaintiff's Application for Default Judgment was entered on March 30, 2009. The order awarded Plaintiff more than \$1.2 million which included the original amount of the investment, past and future profits from the show, punitive damages, interest charges, and attorney fees and costs. Cortese failed to timely inform his clients of the judgment.

The state bar is informed and believes that Stabile was not aware of the Default Judgment or the amount until she received an e-mail on May 5, 2009, from a reporter requesting a comment on the judgment.

During a subsequent conversation between Cortese and Stabile, Cortese expressed surprise at the Default Judgment and represented to Stabile that he was previously unaware of it.

The first time that Cortese discussed with Stabile the original award of attorney fees from 2006, or the missed deposition dates from 2007, is on or about May 21, 2009, during an e-mail exchange in which Stabile asked him why she was not aware of the award of attorney fees or the deposition dates. Cortese responded that the award of attorney fees would have been revisited at trial.

Based on the foregoing, Cortese violated Rule of Professional Conduct (RPC) 1.1 (Competence), RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 3.2(a) (Expediting Litigation) and RPC 3.4 (Fairness to Opposing Party and Counsel) and is hereby **PUBLICLY REPRIMANDED**.

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**In re:** Judith H. Braecklein  
**Bar No.:** 3322  
**File No.:** 10-009-0619  
**Filed:** February 10, 2011

*Public Reprimand imposed for failure to respond to Supreme Court Orders.*

Judith H. Braecklein and co-counsel were listed as counsel of record for the Appellant in an Appeal from District Court in the matter of *Brenda Macias v. Ramon Torres*. The Notice of Appeal was filed on February 24, 2009 and the matter subsequent proceeded through the Settlement Conference Program.

On June 1, 2009, the Supreme Court issued an order removing the appeal from the Settlement Conference Program and reinstated briefing pursuant to NRAP 3E. The appeal was removed because Torres did not intend to retain counsel to appear on his behalf. Braecklein, on behalf of the appellant, was ordered to submit a transcript request within 10 days and a fast track statement and appendix within 40 days.

As of August 25, 2009, Braecklein had failed to submit a transcript request and had not filed a fast track statement or appendix as required by the June 1, 2009 order.

On August 25, 2009, the Supreme Court filed a Conditional Sanction Order for her failure to comply with the deadlines contained in the June 1, 2009 order. The sanction of \$500 was to be paid within 15 days and proof of payment was to be filed with the court. The court stated that the sanction would be automatically vacated if the transcript request, fast track statement, and appendix were filed within 10 days. Braecklein was also given the option, in the alternative, to file a motion for an extension of time to file these documents.

On September 15, 2009, she filed a transcript request in violation of the court's August 25, 2009 order. Pursuant to the order, the request was actually due on September 9, 2009. Braecklein did not file a fast track statement or appendix at this time, nor did she pay the \$500 sanction. She incorrectly assumed that the date the documents are mailed to the Supreme Court counts is the filing date.

On September 30, 2009, the Supreme Court issued an order regarding sanctions and to show cause as to why the appeal should not be dismissed as abandoned and why counsel should not be referred to the state bar. Braecklein was given 20 days to file a response to the order to show cause and was cautioned by the court.

On October 23, 2009, she filed a motion for extension of time to file fast track statement and appendix. The Supreme Court granted the motion and provided her with a deadline of November 20, 2009 to file both the statement and appendix. She once again failed to file the statement and the appendix in compliance with the order.

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On January 8, 2010, the Supreme Court issued an order removing Braecklein and co-counsel as counsel of record for repeatedly failing to comply with court imposed deadlines and directives. The Supreme Court also referred both of them to the State Bar of Nevada for investigation and appropriate disciplinary action. Based upon this order, the State Bar of Nevada opened a file concerning Braecklein and her co-counsel.

On January 10, 2010, she filed a request to set aside the January 8, 2010 order. This request was denied by the court on March 10, 2010, on the basis that a fast track statement had never been filed. Braecklein's affidavit to the Supreme Court stated that she was the retained counsel for Appellant, not co-counsel. She also admitted in the affidavit that she neglected to put the due date on the office calendar and that the matter subsequently slipped through the cracks.

On March 24, 2010, Braecklein filed a response to the court order denying the request to set aside the January 8, 2010 order.

On May 6, 2010, the Supreme Court issued an order granting the motion to set aside, in part, the January 8, 2010 and March 10, 2010 orders. Braecklein was given a 10-day extension to file and serve a fast track statement.

On May 26, 2010, she attempted to file a fast track statement and appendix 1-3 with the clerk of the Supreme Court. Since she had violated the terms of the May 6, 2010 order by nine days, the clerk rejected the filing.

On May 28, 2010, the court filed an order regarding

fast track statement and appendices, sealing the record on appeal and directing response. In the order, the court directed the clerk to file the untimely fast track statement and appendices as of the date of the order.

On July 30, 2010, the Supreme Court filed an order of affirmance affirming the judgment of the District Court. A remittitur was issued on August 24, 2010 which was received by the District Court on August 30, 2010.

In light of the foregoing, Braecklein violated Rule of Professional Conduct (RPC), 1.1 (Competence), RPC 1.3 (Diligence), RPC 3.2 (Expediting Litigation), RPC 3.4 (c) (Fairness to Opposing Party or Counsel) and is hereby **PUBLICLY REPRIMANDED**. ■

1. On January 26, 2001, the state bar filed a supplement to the record indicating that Hackett took and passed the essay portion of the Nevada bar examination in February 2010, and he also took and passed the MPRE in March 2010. Thus, we conclude that Hackett has satisfied these conditions of his reinstatement to active status.
2. This petition for reinstatement from disability inactive status was marked as confidential upon its filing. Since we grant the petition, the matter is now public, and we direct the clerk to remove the confidential designation (See SCR 121(8)).

## 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.