

bar counsel report

SUPREME COURT OF NEVADA

In re: Won Sok Lee
 Bar No.: 6034
 Docket No.: 56547
 Filed: September 3, 2010

ORDER OF DISBARMENT BY CONSENT

Respondent consented to disbarment following felony conviction.

The Southern Nevada Disciplinary Board and attorney Won Sok Lee, Bar Number 6034, have filed, pursuant to SCR 112, a joint petition for Lee's disbarment by consent. The petition is supported by Lee's affidavit, in which he states that he consents to disbarment and does so freely and voluntarily; that he has not been subjected to any coercion or duress; that he is fully aware of the implications of his consent; and that he has had an opportunity to consult with counsel prior to consenting to disbarment. Lee acknowledges in the affidavit that he was convicted in federal court, pursuant to a guilty plea, of one count of conspiracy to commit wire fraud in violation of 18 U.S.C. § 371, and one count of wire fraud in violation of 18 U.S.C. § 2 and 1343.¹ He concedes that he has engaged in conduct that is a violation of the Rules of Professional Conduct and that the material facts alleged are true. He submits the affidavit with full knowledge that if the state bar were to prosecute his case, he could not successfully defend against the charges.

Pursuant to SCR 112, an attorney who is the subject of an investigation or proceeding involving allegations of misconduct may consent to disbarment by submitting the requisite affidavit. Lee's affidavit meets the requirements of SCR 112(1). Therefore, the petition for disbarment by consent is granted. Won Sok Lee is hereby disbarred. The parties shall comply with the applicable provisions of SCR 115 and SCR 121.1.

In re: Anthony R. Lopez
 Bar No.: 5053
 Docket No.: 55626
 Filed: September 3, 2010

ORDER IMPOSING RECIPROCAL DISCIPLINE

Reciprocal discipline imposed following discipline from the California State Bar.

This is a petition under SCR 114 to reciprocally discipline attorney Anthony Lopez, Jr., based on discipline imposed upon him in California. Lopez did not file a response to the petition.

Lopez engaged in numerous incidences of misconduct, involving several clients, in eight different cases.

In the first case, Lopez and California bar counsel stipulated that by failing to disburse his clients' portion of their settlements until more than one year after he received the settlement funds and the fees and costs and medical expenses had become fixed, Lopez failed to pay client funds promptly and violated rule 4-100(B)(4) of the California Rules of Professional Conduct. In addition, Lopez and California bar counsel stipulated that by failing to obtain court approval of settlements of the minor clients, and by failing to obtain an order directing payment of his attorney fees and medical expenses prior to disbursing the funds, Lopez willfully violated California Probate Code sections 3500 and 3600-3601, and thereby failed to support the laws of the State of California in violation of Business and Profession Code 6068(a).

In the second case, Lopez and California bar counsel stipulated that by delaying more than one year to satisfy a medical lien, Lopez failed to honor the medical lien of a client in willful violation of rule 4-100(B)(4) of the California Rules of Professional Conduct.

In the third case, Lopez and California bar counsel stipulated that by failing to inform his client about written settlement offers, Lopez failed to communicate promptly with the client in willful violation of Rule 3-510 of the California Rules of Professional Conduct. In addition, Lopez and California bar counsel stipulated that by delaying more than one year to satisfy a lien, Lopez violated California Rule of Professional Conduct 4-100(B)(4).

In the fourth case, Lopez and California bar counsel stipulated that by failing to file a complaint for interpleader until 10 months after his client received a collection notice, Lopez violated rule 3-110(A) of the California Rules of Professional Conduct.

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bar counsel report

In the fifth case, Lopez and California bar counsel stipulated that by failing to adequately explain terms of a settlement, Lopez failed to communicate with his clients in violation of California Business and Professions Code section 6068(m).

In the sixth case, Lopez and California bar counsel stipulated that by failing to adequately explain terms of a settlement, Lopez failed to communicate with his client in willful violation of California Business and Professions Code section 6068(m).

In the seventh case, Lopez and California bar counsel stipulated that by failing to obtain a court order directing payment of attorney fees and medical expenses prior to disbursing settlement funds, Lopez violated California Probate Code sections 3500 and 3600-3601 and thereby failed to support the law of the State of California in violation of California Business and Profession Code section 6068(a).

The eighth case involved conduct committed in Nevada. In that case, Lopez stipulated that he violated California Rule of Professional Conduct 1-400(D)(2) by running a misleading advertisement in Nevada.

The California Supreme Court approved the parties' stipulation that Lopez be suspended from the practice of law for one year; that he be suspended from the practice of law for the first 90 days of that suspension; that the remainder of the suspension be stayed; and that he be placed on probation for one year; subject to numerous conditions.

SCR 114(4) provides that this court shall impose identical reciprocal discipline unless the attorney demonstrates, or this court finds, that one of four exceptions applies. None of the exceptions is present in this case.

Accordingly, we grant the petition for reciprocal discipline. Attorney Lopez is hereby suspended from the practice of law for one year. Lopez shall be suspended from the practice of law for the first 90 days of that suspension. The remainder of the suspension is stayed and he is placed on probation for one year. Lopez must provide proof to Nevada bar counsel of compliance with the conditions of probation imposed upon him by California. Failure to do so constitutes a violation of probation and could subject Lopez to further discipline.² Lopez and the State Bar shall comply with SCR 115 and SCR 121.1.

In re: Thomas C. Michaelides
Bar No.: 5425
Docket No.: 54789
Filed: September 7, 2010

ORDER IMPOSING PUBLIC REPRIMAND

Public Reprimand imposed, in part, for failure to comply with Supreme Court Orders.

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Thomas C. Michaelides receive a public reprimand for violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 3.2 (expediting litigation), and RPC 3.4(c) (fairness to opposing party and counsel; knowingly disobey an obligation under the rules of a tribunal). See SCR 105(3)(b). We conclude that the recommended discipline is appropriate and that a public reprimand is warranted in this case.

Background and Facts

Michaelides has a prior disciplinary history in Nevada. In 2003, he received a private reprimand for violating two rules of professional conduct (communication; failure to respond to disciplinary authority). In 2004, he again received a private reprimand for violating two rules of professional conduct (competence; responsibilities regarding nonlawyer assistants). In 2008, Michaelides received a letter of reprimand for violating four rules of professional conduct (fees; communication with person represented by counsel; three violations of unauthorized practice of law; three violations of failure to respond to disciplinary authority).

The facts in the instant case are undisputed. Michaelides represented the appellant in an appeal to this court in docket no. 50834, docketed on January 3, 2008. Pursuant to the version of NRAP 14(b) in effect in 2008, Michaelides was required to file a docketing statement within 15 days after the appeal was docketed. Michaelides failed to timely file the docketing statement. Thus, on February 7, 2008, the clerk of this court issued a notice directing Michaelides to file the docketing statement within ten days. This notice warned Michaelides that failure to file the docketing statement "may result in the imposition of sanctions, including the dismissal of [the] appeal." Wagoner v. Richards, Docket No. 50834 (Notice to File Docketing Statement, February 7, 2008). Michaelides again failed to file the docketing statement.

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continued on page 42

bar counsel report

On March 14, 2008, this court issued an order conditionally imposing a \$500 sanction against Michaelides for failure to file the docketing statement. *Id.* (Order Conditionally Imposing Sanctions, March 14, 2008). The order noted that the conditional sanction would be automatically vacated if Michaelides filed and served the docketing statement or motion for an extension of time within ten days of the order. *Id.* Michaelides also failed to comply with the March 14, 2008, order).

On April 17, 2008, this court entered an order noting that the \$500 sanction was still in effect. *Id.* (Order Regarding Sanctions, April 17, 2008). This order directed Michaelides to file and serve the docketing statement, as well as provide proof of payment of the \$500 sanction, within seven days of the order. *Id.* Michaelides submitted the docketing statement for filing in this court on October 16, 2008.

Subsequently, respondents in docket no. 50834 filed a motion to dismiss the appeal based on Michaelides' procedural derelictions. On November 14, 2008, this court entered an order denying the motion to dismiss. *Id.* That order also directed the clerk to file Michaelides' docketing statement, directed Michaelides to file proof of payment of the \$500 sanction within 10 days of the order, and directed him to file and serve a transcript request form with in 15 days of the order. This order was sent to Michaelides' SCR 79 address but was returned as "unclaimed, unable to forward."

After Michaelides failed to comply with the November 14, 2008, order, this court entered an order dismissing the appeal and referring Michaelides to the state bar as a consequence of his repeated procedural failures. *Id.* (Order Dismissing Appeal and Referring Counsel to State Bar, January 23, 2009). The state bar filed a complaint against Michaelides alleging that his actions, or inaction, in representing the appellant in docket no. 50834 resulted in the violation of RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c).

At the disciplinary hearing, Michaelides offered mitigating testimony that his derelictions in docket no. 50834 were due to the fact that one of his crucial employees had fallen ill and required out-of-state medical treatment. Michaelides further stated that he attempted to obtain a transcript in August 2008 and that the sanction payment had been inadvertently sent to the incorrect address.³ However, Michaelides acknowledged that his conduct violated RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c).

Based on Michaelides' undisputed conduct in representing the appellant in docket no. 50834, the panel found that Michaelides violated RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c). The panel further found that

Michaelides' misconduct in this matter was aggravated by his prior disciplinary history.⁴ As to the recommended discipline, the panel recommended that Michaelides: (1) be issued a public reprimand for violating RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c); (2) be required to fulfill an additional 10 CLE credit hours in ethics within one year of this court's order; (3) be required to hire an attorney, at his own expense and approved by bar counsel, to audit his law practice and report all findings to bar counsel, including recommendations to improve Michaelides' law practice, and be mandated to implement any recommendations approved by bar counsel; and (4) be required to pay the costs of the disciplinary proceedings within 30 days of receipt of the state bar's bill of costs. This automatic review followed. Neither Michaelides nor the state bar filed briefs in this matter; therefore, it was submitted for decision on the record without briefing or oral argument. SCR 105(3)(b).

Discussion

Michaelides acknowledges that his conduct in representing the appellant in docket no. 50834 violated RPC 1.1, RPC 1.3, RPC 3.2 and RPC 3.4(c).

A decision of a panel of the Southern Nevada Disciplinary Board recommending a public reprimand is subject to automatic review by this court. SCR 105(3)(b). Although persuasive, this panel's findings and recommendations are not binding on this court. *Matter of Disciplinary of Droz*, 123 Nev. 163, 168, 160 P.3d 881, 884 (2007). "This court must review the record de novo and exercise its independent judgment to determine whether and what type of discipline is warranted." *Id.* At 168, 160 P.3d at 884-85 (quoting *In re Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992)). The panel's findings of misconduct must be supported by clear and convincing evidence. *In re Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

The panel's findings of misconduct are supported by clear and convincing evidence. Michaelides failed to follow the procedures of this court in his representation of the appellant in docket no. 50834. Further, Michaelides failed to heed the numerous warnings issued by this court. As a result, the appeal in docket no. 50834 was dismissed, Michaelides was referred to the state bar for investigation and a disciplinary panel found that his conduct violated several rules of professional conduct. Michaelides neither disputes the state bar's allegations of misconduct, nor the disciplinary panel's findings of misconduct based on his procedural derelictions in docket no. 50834.

Accordingly, we hereby publicly reprimand attorney Thomas C. Michaelides for violations of RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c). Michaelides shall comply with

all of the other conditions recommended by the disciplinary panel. In addition, Michaelides shall pay the \$250 outstanding on the \$500 sanction imposed in docket no. 50834 to the Supreme Court Law Library within 15 days from the date of this order.

RESIGNATIONS (VOLUNTARY, NO DISCIPLINE PENDING)

SCR 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:

Jeffrey Alan Miller

Bar No. 342

Order 56382

Filed 9/3/10 ■

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1. *United States v. Lee*, No. 9:06cr80197-RYSKAMP (Judgment, D.S.Fla. Dec. 14, 2009). Lee was sentenced to a prison term of 60 months on the first count and 238 months on the second count, to be served consecutively, and was ordered to pay \$78,525,567.34 in restitution. *Id.* Pursuant to SCR 101, conviction of a crime constitutes grounds for discipline.
 2. This suspension is separate from and in addition to the discipline imposed upon Lopez in *In re: Discipline of Anthony Lopez, Jr.*, Docket No. 53493 (Order Imposing Public Reprimand, April 9, 2010). While we acknowledge that the discipline imposed by the California Supreme Court arose, in part, from the misconduct committed in Nevada, we are convinced that the gravity of the other misconduct outlined in the present case, which occurred solely in California, warrants the imposition of reciprocal discipline.
 3. The records of Supreme Court Law Library indicate that it received a check from Michaelides in the amount of \$500 on December 22, 2008, as payment of the sanction imposed by this court. However, that check was subsequently returned due to insufficient funds. Michaelides then delivered a check in the amount of \$250 to the Supreme Court Law Library, which constitutes partial payment of the \$500 sanction.
 4. Although Michaelides stated that he has since paid the \$500 sanction ordered by this court in the underlying matter in full, a check of the court's records indicates that there is still \$250 outstanding.

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 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.