

# bar counsel report

## SUPREME COURT OF NEVADA

In re: Noel Gage  
 Bar No.: 6305  
 Docket No.: 56251  
 Filed: July 30, 2010

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

*Temporary suspension warranted following criminal felony conviction.*

Bar Counsel for the State Bar of Nevada has filed a petition pursuant to SCR 111 to report that attorney Noel Gage has been convicted of a serious crime. The petition is supported by documentation indicating that on June 16, 2010, in the United States District Court for the District of Nevada, a judgment of conviction was entered against Gage, pursuant to his plea under *North Carolina v. Alford*, 400 U.S. 25 (1970), of one count of obstruction of justice, a felony in violation of 18 U.S.C. § 1512(c).<sup>1</sup> *United States v. Gage*, No. 2:07-CR-0039-JLQ-LRL (D Nev. June 16, 2010).

Pursuant to SCR 111, temporary suspension and referral to the appropriate disciplinary board are mandatory when an attorney has been convicted<sup>2</sup> of a serious crime, which includes felonies. See SCR 111(6)-(8). We have considered the parties' pleadings<sup>3</sup> and conclude that no good cause has been shown as to why we should decline to follow the mandatory provisions of the rules requiring a temporary suspension. SCR 111(7).

Accordingly, pursuant to SCR 111(7), we hereby temporarily suspend attorney Noel Gage from the practice of law in Nevada. Furthermore, pursuant to SCR 111(8), we refer this matter to the Southern Nevada Disciplinary Board for the initiation of formal disciplinary proceedings in which the sole issue to be determined shall be the extent of the discipline to be imposed.

It is so ORDERED.

### ADMINISTRATIVE SUSPENSIONS

The following members were administratively suspended and/or fined for failure to comply with 2010 reporting requirements:

- David B. Finley
- Don F. Shreve, Jr.

In re: Richard Salas  
 Bar No.: 6480  
 Docket No.: 56167  
 Filed: July 26, 2010

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

*Temporary suspension warranted following criminal felony convictions.*

Bar Counsel for the State Bar of Nevada has filed a petition with this court pursuant to SCR 111 to report that attorney Richard J. Salas has been convicted of a serious crime in the state of California. The petition is supported by documentation indicating that on March 18, 2010, in the California Superior Court for Los Angeles County, Salas entered a plea of *nolo contendere* to one count of perjury under oath, a felony under California Penal Code § 118(a), and one count of worker's compensation insurance fraud, a felony under California Insurance Code § 1874.4(a)(1).<sup>4</sup>

Pursuant to SCR 111, temporary suspension and referral to the appropriate disciplinary board are mandatory when an attorney has been convicted<sup>5</sup> of a serious crime, which includes felonies. See SCR 111(6)-(8). Accordingly, pursuant to SCR 111(7), we hereby temporarily suspend attorney Richard J. Salas from the practice of law in Nevada. Furthermore, pursuant to SCR 111(8), we refer this matter to the Southern Nevada Disciplinary Board for the initiation of formal disciplinary proceedings in which the sole issue to be determined shall be the extent of the discipline to be imposed.

It is so ORDERED.

In re: Jorge Sanchez  
 Bar No.: 10434  
 Docket No.: 56126  
 Filed: June 23, 2010

### ORDER OF TEMPORARY SUSPENSION

*Temporary suspension pending resolution of formal disciplinary proceedings.*

This is a joint petition by the state bar and attorney Jorge L. Sanchez for an order temporarily suspending Sanchez from the practice of law, pending the resolution of formal disciplinary proceedings against him. The petition and supporting documentation demonstrate that Sanchez has failed to safekeep funds, in potentially hundreds of cases.

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 the 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 Sanchez poses a substantial threat of serious harm to the public, and that his immediate temporary suspension is warranted under SCR 102 (4)(a). Accordingly, we hereby order attorney Jorge L. Sanchez temporarily suspended from the practice of law pending resolution of formal disciplinary proceedings against him.

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

1. Sanchez 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 Sanchez's practice of law and all fees and other funds received from or on behalf of his clients shall, from the date of service of this order, be deposited into a trust account from which no withdrawals may be made by Sanchez except upon written approval of bar counsel; and
3. Sanchez is prohibited from withdrawing any funds from any and all accounts in any way relating to his practice, including but not limited to his general and trust accounts, except upon written approval of bar counsel.

The State Bar of Nevada shall immediately serve Sanchez with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Sanchez's place of employment or residence,

or by publication.<sup>6</sup> Sanchez shall comply with the provisions of SCR 115.

It is so ORDERED.

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**In re:** Paul Alan Schelly  
**Docket No.:** 54185  
**Filed:** June 22, 2010

### ORDER OF INJUNCTION

*Former California attorney enjoined from practicing law in the State of Nevada.*

This is an automatic review, pursuant to SCR 105(3)(b), of the Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Paul Alan Schelly be suspended from the practicing law in Nevada or appearing as counsel before any court in Nevada for a period of six months and one day, that Schelly be assessed the costs of the disciplinary proceeding, and that the state bar use its best efforts to report this court's final order to the National Discipline Data Bank and the State Bar of California.<sup>7</sup> The panel's recommendation was based on its conclusion that Schelly violated RPC 3.4(c) (fairness to opposing party and counsel – knowingly disobey an obligation under the rules of tribunal except for an open refusal based on an assertion that no valid obligation exists) and RPC 8.1(b) (bar admission and disciplinary matters).<sup>8</sup> To date, Schelly has neither filed an opening brief in this matter nor expressed any intention to contest the panel's findings and recommendation in this court. Similarly, no opening brief has been filed by the state bar pursuant to SCR 105(3)(b), thus, this matter shall stand submitted on the record. See SCR 105(3)(b).

On April 22, 2010, this court entered an order directing the parties to file briefs addressing the specific issue of whether the recommended suspension is appropriate under the instant circumstances where Schelly is not, and was not, a member of the Nevada bar, and if a suspension is not appropriate, what, if any, alternate form of discipline is proper. The state bar has filed a brief in response to the order. To date, Schelly has failed to respond to the order.

The state bar's brief informed this court that subsequent to the hearing panel issuing its

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recommended discipline in this matter, Schelly was disbarred from the practice of law in the state of California by order dated November 24, 2009. *In re Paul Alan Schelly*, Case No. 05-0-00181 (Order of Disbarment, November 24, 2009). As such, Schelly is not eligible to petition the California state bar for reinstatement until five years after the effective date of his disbarment, see Rule of Procedure of the State Bar of California 662(b), and likely would not be able to practice law in Nevada or appear before any Nevada court during his period of disbarment. See SCR 51(1)(f); SCR 42(2)(e). In light of these facts, the state bar has amended the hearing panel's recommended discipline, in part. The state bar now recommends instead of a suspension, that Schelly be enjoined from practicing law in Nevada and from appearing in any Nevada court, with no possibility that the injunction can be lifted, until he is able to be reinstated to the practice of law in California. The state bar further recommends that Schelly be required to petition this court to lift the injunction before he can practice law in Nevada or appear in any Nevada court.

After reviewing the record, we conclude that clear and convincing evidence supports the panel's findings. The record indicates that during the course of a bankruptcy proceeding in the United States Bankruptcy Court for the District of Nevada, Schelly failed to comply with that court's procedural rules or to otherwise communicate with that court. Further, Schelly failed to comply with the sanction order that court imposed on him for those failures.<sup>9</sup> Subsequently, Schelly failed to communicate with the state bar in the underlying matter and despite proper notice, failed to appear at the disciplinary panel hearing.

Accordingly, we approve the panel's recommendation, as amended by the state bar, in its entirety. Schelly is hereby enjoined from practicing law in Nevada or appearing as counsel before any tribunal in Nevada until he is able to be reinstated to the practice of law in the state of California. See *Droz*, 123 Nev. At 168-69, 160 P.3d. at 885. Schelly is required to petition this court to lift the injunction prior to being eligible to practice law in Nevada or appear in any Nevada court. Schelly shall pay the costs of the disciplinary proceedings within 30 days of receipt of the State Bar of Nevada's bill of costs. SCR 120. Finally, the State Bar of Nevada shall use its best efforts to report this

court's order to the National Discipline Data Bank and to the State Bar of California. It is so ORDERED.

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**In re:** Darla Rae Anderson  
**Bar No.:** 2283  
**Docket No.:** 55899  
**Filed:** June 22, 2010

## **ORDER IMPOSING RECIPROCAL DISCIPLINE AND DISBARRING ATTORNEY**

*Disbarment imposed following reciprocal discipline petition.*

This is a petition under SCR 114 to reciprocally discipline attorney Darla Rae Anderson, based on discipline imposed upon her in California. Anderson did not file a response to the petition.

Anderson's underlying disciplinary matter consisted of 17 counts of misconduct involving six different clients and other matters. Anderson's misconduct was found to have violated California Rules of Professional Conduct 2-200(A)(1) (division of legal fees) (one count), 3-110(A) (failure to perform competently) (five counts), 3-700(D)(1) (failure to release client papers and property) (one count), 3-700(D)(2) (failure to refund unearned fees) (one count), and 4-100(A) (trust account violations) (two counts), as well as California Business and Professions Code sections 6068(i) (failure to cooperate with state bar) (three counts), 6068(m) (failure to communicate) (one count), 6068(o)(2) (failure to report fraud judgment) (one count), and 6106 (moral turpitude/dishonesty) (two counts).<sup>10</sup>

The California Supreme Court ordered Anderson disbarred from the practice of law. She was also ordered to pay restitution, to comply with notice requirements, and to pay costs of the proceedings.

Anderson failed to inform bar counsel of the discipline as required by SCR 114(1).

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 Darla Rae Anderson is hereby disbarred from the practice of law in this state. Anderson and the state bar shall comply with SCR 115 and SCR 121.1.

It is so ORDERED. ■

1. Gage timely reported the matter to bar counsel as required by SCR 111(2).
2. For purposes of SCR 111, Gage's Alford plea qualifies as a conviction. See SCR 111(1).
3. Even though an opposition to the petition is not expressly permitted by the rules, bar counsel does not oppose Gage's filing of an opposition. We have considered Gage's opposition in resolving this matter.  
Bar counsel's motion to extend the time to file, and request to file, a reply to respondent's opposition is hereby granted. We direct the clerk of this court to file bar counsel's reply, which was received by this court on July 21, 2010.
4. Salas timely reported this matter to bar counsel as required by SCR 111(2).
5. For purposes of SCR 111, Salas' plea of *nolo contendere* qualifies as a conviction even though he has not yet been sentenced. See SCR 111(1).
6. When served on either Sanchez or a depository in which he 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).
7. Schelly was, at all times pertinent to this matter, licensed to practice law in California. At no time pertinent to this matter was Schelly a licensed attorney in Nevada. This court has jurisdiction to impose discipline upon Schelly, despite the fact he was, and is not, a member of the State Bar of Nevada. See SCR99(1); Waters v. Barr, 103 Nev. 694, 697-98, 747 P.2d 900, 902 (1987); Matter of Discipline of Droz, 123 Nev. 163, 167-68, 160 P.3d 881, 884 (2007).
8. A charge of violating RPC 5.5 (unauthorized practice of law) was dismissed by the state bar for insufficient evidence.
9. The record does not indicate whether Schelly has yet complied with the bankruptcy court's sanction order.
10. The equivalent Nevada rules which correspond to Anderson's misconduct are RPC 1.1 (competence) (five counts), RPC 1.4 (communication) (One count), RPC 1.5 (fees) (one count), RPC 1.15 (safekeeping property) (two counts), RPC 1.16 (declining or terminating representation) (two counts), RPC 8.1 (bar admission and disciplinary matters) (four counts), and RPC 8.4 (misconduct) (two counts).



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## 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 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.