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FEB 21 2018

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA

BY: Samuel R. ...
OFFICE OF BAR COUNSEL

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4 STATE BAR OF NEVADA,)
5 Complainant,)
6 vs.)
7 MARK A. SMITH, ESQ.,)
8 Nevada Bar No.7918,)
Respondent)

LETTER OF REPRIMAND

9 TO: Mark Smith, Esq.
7755 Office Plaza Dr. N., Ste. 195
10 West Des Moines, IA 50266

Grievance File OBC17-0178

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13 On Wednesday, December 19, 2017, a Hearing Panel of the Southern Nevada Disciplinary
14 Panel convened to determine whether you violated the Rules of Professional Conduct.

15 According to their findings, on July 18, 2014, your client accepted settlement offer of
16 \$65,000 to resolve a personal injury matter. Unfortunately, there were issues with the settlement
17 and the case was not fully settled until January 28, 2015.

18 On January 28, 2015, Your then law partner, Douglas Monson, ("Monson") deposited the
19 settlement check for \$64,555.60 in the SmithMonson trust account. This was the settlement
20 amount less the amount paid directly to Medicare for their lien.

21 The total medical liens in the matter were \$300,000, and as such on April 7, 2015,
22 Monson filed an interpleader naming the 24 defendants.

23 On May 4, 2015, a motion was filed by SmithMonson requesting permission to release
24 confidential settlement information. This was granted on June 25, 2015.

1 Nothing was filed on this case after the order of June 25, 2015 until May 16, 2016, almost
2 one year later. On May 16, 2016, a Motion to Interplead Funds and Distribute Proceeds was filed
3 by you. According to the motion, there were over \$300,000 in medical liens, \$26,000 was owed
4 for attorney's fees, and \$4,689.10 was owed for costs relating to the settlement. Additionally, you
5 argued that your office incurred an additional \$7,945 for interpleader attorney's fees and
6 \$3,105.38 for costs.

7 The total owed to SmithMonson was \$41,739.48, and you requested that amount be
8 distributed to the firm and \$22,816.12 be deposited with the court for the remaining parties.

9 The hearing on the interpleader was scheduled for a chambers hearing on June 20, 2016.
10 According to the minutes of the hearing, Judge Cory granted the motion to interplead the funds in
11 part and denied the motion to distribute the proceeds. It was noted that the court agreed the
12 disputed funds should be deposited with the court, and directed your office to prepare an order
13 following the hearing, however Monson did not submit the prepared Order to the Court until
14 December 2016.

15 On November 10, 2016, Judge Cory entered a minute order finding that he directed you to
16 prepare an order following the June 20th hearing. Since no Order was submitted to the court as
17 required, the court directed you to deposit the settlement amount with the Clerk of the Court
18 within ten days of the date of this order and provide proof of the deposit to the Court. The Court
19 hoped the interpleader could be handled expeditiously thereafter. A status check for compliance
20 was scheduled for December 5, 2016.

21 You again failed to deposit the funds with court as ordered.


22 On December 5, 2016, Judge Cory entered another minute order directing that a show
23 cause hearing was to be set as to why you should not be held in contempt of court for failure to
24 comply with the court's November 10, 2016 order. You were then ordered to appear on January
25 31, 2017 to address the matter.

1 On December 19, 2016, you issued a check payable to Clark County Clerk in the amount
2 of \$64,555.60 for the interpleader. This check cleared the trust account the following day, and the
3 show cause hearing was vacated.

4 RPC 3.2(a) states: “[a] lawyer shall make reasonable efforts to expedite litigation
5 consistent with the interests of the client.” In this matter it took nearly one year for the
6 interpleader to be filed and then several additional court orders for the funds to be deposited with
7 the court.

8 Your firm’s conduct in delaying this matter is a clear violation of RPC 3.2(a) and as such
9 you are hereby **REPRIMANDED**.

10 DATED this 16th day of Feb. ~~January~~, 2018.

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12 _____
13 Shann Winesett Esq.,
14 Chair, Formal Hearing Panel
15 Southern Nevada Disciplinary Board
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1 CERTIFICATE OF SERVICE


2 The undersigned hereby certifies a true and correct copy of the foregoing **LETTER OF**
3 **REPRIMAND** was deposited via electronic mail to:

- 4 1. Mark A. Smith, Esq. (Respondent): mark@SmithMonson.com
5 2. Jason R. Dworin, Esq. (Assistant Bar Counsel): jasond@nvbar.org (COURTESY COPY)

6 AND sent via first class regular mail to:

7 Mark Smith, Esq.
8 7755 Office Plaza Drive, N., Ste. 195
9 West Des Moines, IA 50266

10 DATED this 23rd day of February, 2018.

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12 By: 
13 Jana L. Chaffee, an employee of
14 the State Bar of Nevada.
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