

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
ALEX B. GHIBAUDO, BAR NO. 10592.

No. 62670

FILED

DEC 11 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER APPROVING CONDITIONAL GUILTY PLEA AND DENYING
REINSTATEMENT TO THE PRACTICE OF LAW*

This is an automatic review, pursuant to SCR 113, of a Southern Nevada Disciplinary Board hearing panel's recommendation that we approve attorney Alex B. Ghibaudo's conditional guilty plea in exchange for a stated form of discipline. We also review the panel's recommendation that Ghibaudo be reinstated to the practice of law, subject to conditions. *See* SCR 116(1).

In July 2009, the State Bar filed a complaint against Ghibaudo alleging multiple counts of misconduct. Based on this, Ghibaudo and the State Bar jointly petitioned for Ghibaudo's temporary suspension. On August 7, 2009, this court entered an order temporarily suspending Ghibaudo from the practice of law. *In re Discipline of Ghibaudo*, Docket No. 54164 (Order of Temporary Suspension, August 7, 2009).

After Ghibaudo's temporary suspension, the State Bar filed two additional complaints, one based on multiple misdemeanor convictions Ghibaudo self-reported to the State Bar pursuant to SCR 111 and one including several additional client grievances. The three complaints were

consolidated for a formal hearing in December 2012. Before the hearing, Ghibaudo entered into a conditional guilty plea with the State Bar in exchange for a stated form of discipline.

In the conditional guilty plea, Ghibaudo agreed to a three-year suspension, retroactive to the August 7, 2009, date of his temporary suspension. He also agreed to pay the costs of the disciplinary proceeding, excluding bar counsel and staff salaries, within 30 days of receiving a memorandum of costs from the State Bar, and to pay \$13,463 to the State Bar Client Security Fund.

Having accepted the conditional guilty plea, the panel next took evidence and heard witness testimony to consider Ghibaudo's fitness for reinstatement to the practice of law. Bar counsel commenced these reinstatement proceedings because at the time of the hearing, the three-year retroactive suspension period agreed to by the parties in the conditional guilty plea had already run. The panel found that Ghibaudo demonstrated by clear and convincing evidence that he has the moral qualifications, competency, and learning in law required for admission to practice law and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar, to the administration of justice, or to the public interest.

The panel recommended that Ghibaudo be reinstated, subject to a two-year probationary period, during which Ghibaudo shall (1) not practice as a solo practitioner; (2) be mentored by a member of the State Bar's TIP mentoring program; (3) comply with all annual CLE requirements; (4) continue his psychological and psychiatric treatment, including taking prescribed medication; and (5) provide Bar Counsel with a relapse prevention plan approved by a licensed healthcare professional

upon the completion of the probationary period. Ghibaudo is also to stay out of trouble during the probationary period, with any infraction beyond a minor traffic violation resulting in revocation of the reinstatement.

Conditional guilty plea

Based on our review of the record, we conclude that Ghibaudo committed the 35 violations of the Rules of Professional Conduct to which he pleaded guilty and we approve the stipulated discipline. See SCR 113(1). Ghibaudo is hereby disciplined as follows:

1. Ghibaudo is suspended for three years, beginning August 7, 2009.
2. Ghibaudo must pay \$13,463 to the State Bar Client Security Fund, in a minimum amount of \$250 per month, increasing to \$350 per month upon his reinstatement to the practice of law, if any.
3. Ghibaudo shall pay the costs of this disciplinary proceeding, not including bar counsel and staff salaries, within 30 days of receiving a memorandum of costs from the State Bar.

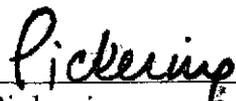
Reinstatement

Under SCR 116(2), an attorney seeking reinstatement must demonstrat[e] by clear and convincing evidence that he or she has the moral qualifications, competency, and learning in law required for admission to practice law in this state, and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar, to the administration of justice, or to the public interest.

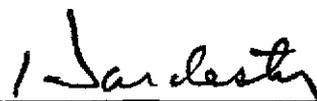
Having reviewed the record, we conclude that the panel's finding that Ghibaudo's reinstatement "will not be detrimental to the integrity and standing of the bar, to the administration of justice, or to the

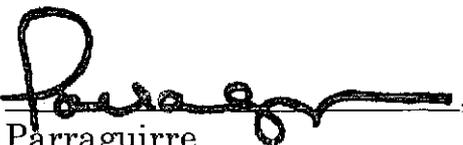
public interest" is not supported by clear and convincing evidence. SCR 116(2). Ghibaudo's misconduct led several clients to seek recompense from the State Bar's Client Security Fund, and this court will not consider reinstatement until Ghibaudo has repaid all of the money owed to the Client Security Fund. We therefore reject the panel's recommendation that Ghibaudo be reinstated and deny reinstatement at this time.

It is so ORDERED.

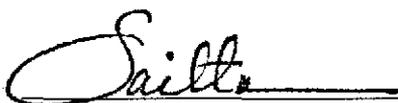

_____, C.J.
Pickering


_____, J.
Gibbons


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Saitta

CHERRY, J., concurring in part and dissenting in part:

I concur with the determination that the conditional guilty plea should be approved, but I would also approve reinstatement as recommended by the disciplinary panel.

Cherry, J.
Cherry

cc: David A. Clark, Bar Counsel
Jeffrey R. Albregts, Chair, Southern Nevada Disciplinary Board
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Eric P. Roy
Perry Thompson, Admissions Office, United States Supreme Court