



FILED

MAR 19 2015

STATE BAR OF NEVADA  
BY: [Signature]  
OFFICE OF BAR COUNSEL

Case Nos. SG13-1104, SG11-1420, SG12-0359,  
SG12-1745, SG13-1107, SG13-1125,  
SG13-1246, SG13-1323

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

MICHAEL J. HARKER, ESQ.  
NEVADA BAR NO. 5353

Respondent.

PUBLIC REPRIMAND

TO: MICHAEL J. HARKER, ESQ.  
c/o Michael J. Warhola, Esq.  
625 S. Sixth Street  
Las Vegas, NV 89101

This matter came before a designated Formal Hearing Panel of the Southern Nevada Disciplinary Board ("Panel") on February 23, 2015, at the State Bar of Nevada's offices in Las Vegas, Nevada. The Panel determined that the imposition of a Public Reprimand was the appropriate discipline, along with the following conditions:

1. That within thirty (30) days from the date of this Order, you shall obtain an attorney, at your own expense and approved by the State Bar, to review and assess your law office practice, particularly in the areas of calendaring, responding to client calls, and supervision of nonlawyer assistants. You shall implement any recommendations made by the attorney and accepted by the State Bar;

2. That you shall have six (6) months from the date of this Order to have the attorney complete the assessment, have the State Bar review any recommended changes, and have those changes that are approved by the State Bar implemented;

1           3.       That within three (3) months from the date of this Order, you shall complete  
2 two (2) credit hours of continuing legal education ("CLE") in the area of law office  
3 management. The course shall be approved by the State Bar, and shall be in addition to  
4 your regular CLE requirement;

5           4.       That within thirty (30) days of the issuance of the Public Reprimand, the  
6 State Bar shall have it translated into Spanish and made available to any potential clients  
7 who contact the office or go to the State Bar's website; and

8           5.       You shall pay the actual costs of the disciplinary proceeding, excluding Bar  
9 Counsel and staff salaries, within thirty (30) days of receipt of a billing from the State Bar.

10           The individual complaints underlying the Public Reprimand are as follows:

11 **SG13-1104 (State Bar of Nevada)**

12           You entered into a business relationship with Jose Avila ("Avila"), a non-  
13 attorney who provided loan modification services. You took over his files, and thereafter  
14 established a second office where Avila worked. You acknowledged that Avila  
15 improperly signed up clients and engaged in the unauthorized practice of law. You  
16 severed your relationship with Avila after he diverted funds for his own personal use.  
17 Your actions in this matter violated Rule of Professional Conduct ("RPC") 5.3  
18 (Responsibilities Regarding Nonlawyer Assistants), RPC 5.4 (Professional Independence  
19 of a Lawyer), and RPC 5.5 (Unauthorized Practice of Law).

20 **SG11-1420 (Ursula Koch)**

21           Ursula Koch ("Koch") retained you for loan modification assistance, but  
22 communicated through Avila, who charged Koch additional monies that he kept for  
23 himself, and which you later reimbursed Koch. Avila, along with other members of your  
24 staff, improperly provided legal advice to Koch of questionable merit. In this matter, you  
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1 violated RPC 1.4 (Communication), RPC 5.3 (Responsibilities Regarding Nonlawyer  
2 Assistants), and RPC 5.5 (Unauthorized Practice of Law).

3 **SG12-0359 (Andrew Morehead)**

4 Andrew Morehead retained you regarding a child support modification matter.  
5 Your delay in filing a motion to modify child support resulted in the court noting that you  
6 should have filed something as soon as you realized a stipulation was not going to be  
7 prepared immediately. You also did not timely file a motion to change custody, which  
8 resulted in the motion being heard after the child's school year commenced. In this  
9 matter, you violated RPC 1.1 (Competence), RPC 1.3 (Diligence), and RPC 1.4  
10 (Communication).

11 **SG12-1745 (Ana Gloria Chavez De Mendoza)**

12 Ana Gloria Chavez De Mendoza retained you to file a divorce against her  
13 husband. You acknowledged that you could have communicated with her more  
14 effectively and took responsibility for the delays in her matter. In this matter, you violated  
15 RPC 1.3 (Diligence) and RPC 1.4 (Communication).

16 **SG13-1107 (Leonardo Ramirez)**

17 Leonardo Ramirez ("Ramirez") retained you to obtain your advice regarding his  
18 defaulted mortgage. In investigating the matter, your staff missed that a Trustee Deed  
19 Upon Sale had been recorded upon the property but was advised by the bank that the  
20 property had not been sold. As such, Ramirez paid for you to file a Chapter 13  
21 bankruptcy petition which became moot. You subsequently offered to file a Chapter 7  
22 bankruptcy to stop a writ of restitution from taking effect, but did not do so as the fee was  
23 not fully paid. You refunded the majority of the monies Ramirez paid you after  
24 participating in the State Bar's Fee Dispute Arbitration Program. In this matter, you  
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1 violated RPC 1.1 (Competence), RPC 1.3 (Diligence), RPC 1.4 (Communication) and  
2 RPC 1.5 (Fees).

3 **SG13-1125 (Alicia Dyas)**

4 Alicia Dyas retained you for various matters, and complained about the lack of  
5 communication from your office. In regard to the personal injury case you handled for  
6 Ms. Dyas, it took over one year for the lien-holders to receive payment. Although holding  
7 onto the funds for a period of time to negotiate the liens is permitted, a year is excessive.  
8 In this instance you violated RPC 1.3 (Diligence), RPC 1.4 (Communication), and RPC  
9 1.15 (Safekeeping Property).

10 **SG13-1246 (Rosa Garay)**

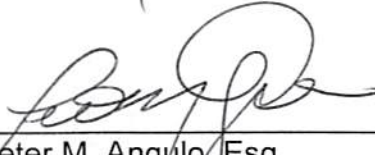
11 Rosa Garay retained you for loan modification assistance at your second office,  
12 and was signed up by a non-attorney who also gave her legal advice. She was able to  
13 meet with you after she submitted her bar complaint. Garay's loan modification was  
14 approved. However, your conduct in this matter violated RPC 5.3 (Responsibilities  
15 Regarding Nonlawyer Assistants) and RPC 5.5 (Unauthorized Practice of Law).

16 **SG13-1323 (Julia Lipkowitz)**

17 Julia Lipkowitz is the Practice Administrator for Nevada Orthopedic and Spine  
18 Center, an entity that is contracted to provide services to individuals that have benefits  
19 through the Culinary Health Fund. She complained that that one of your staff members  
20 rendered legal advice to a client which resulted in the client being unable to be treated by  
21 her office. You provided evidence that the client chose not to go through the Culinary  
22 Health Fund for cost-related issues. However, it was still improper for a non-attorney to  
23 offer legal advice. Accordingly, your conduct in this matter violated RPC 5.3  
24 (Responsibilities Regarding Nonlawyer Assistants) and RPC 5.5 (Unauthorized Practice  
25 of Law).

1 Based on the foregoing, you are hereby **PUBLICLY REPRIMANDED**. Please be  
2 advised that if this behavior reoccurs in the future, the State Bar is likely to seek the  
3 imposition of a harsher sanction.

4 Dated this 6 day of March, 2015.

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7 Peter M. Angulo, Esq.  
8 Formal Hearing Panel Chair  
9 Southern Nevada Disciplinary Board  
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