

bar counsel report

SUPREME COURT OF NEVADA

In re: David Winter
Bar No.: 4529
Docket No.: 58433
Filed: February 24, 2012

ORDER OF DISBARMENT

Disbarment warranted following attorney's dishonest and fraudulent conduct in concealing assets to frustrate the court's judgment and turnover order.

This is an automatic review, pursuant to SCR 105(3)(b), of a Northern Nevada Disciplinary Board hearing panel's findings that attorney David K. Winter violated four rules of professional conduct and its recommendation that Winter be disbarred from the practice of law in Nevada. Having reviewed the record, we approve the panel's findings and recommendation.¹

Facts and Procedural History

Winter's misconduct stems from his actions while representing Daniel L. Stango in federal district court litigation. On August 17, 2006, the United States District Court for the District of Nevada entered an order of contempt against Winter. The contempt arose from Winter's failure to comply with the district court's judgment and turnover order. The contempt order directed the clerk of the court to forward the order to the State Bar of Nevada for the commencement of disciplinary proceedings. The order demonstrated that Winter devised and implemented a scheme to transfer Stango's assets to another individual in order to conceal the assets. Winter did this with the intent to mislead the receiver of the judgment against Stango. Winter also did not notify the court of these transfers. Although Stango transferred the assets to another individual, Stango continued to make all payments for the mortgage, taxes and insurance on the assets, with the mortgage and insurance remaining in Stango's name. Further, Stango continued to receive income from two of the assets. Winter concealed and misrepresented these transfers to the court and the receiver.

Winter created a new corporation in order to disguise Stango's ownership in a corporation bearing the same name. Winter also became the North American manager and began drawing a salary from this new corporation. Winter had authority to handle the finances and investments of the new corporation. Payments to the new corporation were sent to Winter. The new corporation collected more than \$214,000 after the entry of judgment. The original and new corporations had the same name, used the same assets, had the same person running the operation and were the same business. The new corporation was an alter ego of the original corporation and both were subject to the judgment and turnover order. Thus, Winter should have turned this money over to the receiver. Winter also used more than \$150,000 belonging to the new corporation for personal uses.

The state bar filed a complaint alleging several violations of the Nevada Rules of Professional Conduct (RPC).² The hearing panel found one violation of RPC 3.3 (candor toward the tribunal), two violations of RPC 3.4 (fairness to opposing party and counsel), one violation of RPC 4.1 (truthfulness in statements

to others), and two violations of RPC 8.4 (misconduct). The panel also found the following aggravating factors, pursuant to SCR 102.5(1): (1) Winter's prior disciplinary action in 2002 for a conflict of interest and prohibited transactions with a client involving Winter's pecuniary interest; (2) Winter's misconduct involved dishonesty and fraud on the federal district court and opposing party; (3) Winter actively involved himself as both a lawyer and employee participant in the fraudulent and deceptive business scheme of his clients, and monetarily gained from the misconduct; (4) Winter's misconduct and multiple offenses, as well as the similarities between the conduct with a client for pecuniary gain and the circumstances of prior discipline; and (5) Winter did not appreciate the wrongfulness of his conduct. The panel found that four mitigating circumstances required discussion, pursuant to SCR 102.5(2): (1) the existence of personal problems in Winter's life; (2) Winter's efforts to rectify the consequences of his misconduct; (3) Winter's cooperation in the disciplinary proceedings; and (4) Winter's inexperience in the practice of law. The panel found that the mitigating factors did not "outweigh the profoundly aggravating circumstances." Based on its findings, the panel recommended that Winter be disbarred from the practice of law in Nevada.

Discussion

A disciplinary panel's decision recommending disbarment is subject to automatic review by this court. SCR 105(3)(b). Although "persuasive, the panel's findings and recommendations are not binding on this court," *Matter of Discipline of Droz*, 123 Nev. 163, 168, 160 P.3d 881, 884 (2007) (alteration omitted) (quoting *In re Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992)). "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. at 633, 837 P.2d at 855). Clear and convincing evidence must support the panel's findings. *In re Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

Having reviewed the record, we conclude that clear and convincing evidence supports the panel's findings and that the recommended discipline is appropriately tailored to the circumstances. Accordingly, we disbar Winter from the practice of law in this state. Such disbarment is irrevocable. See SCR 102(1). The parties shall comply with the applicable provisions of SCR 115 and 12 1(1).

It is so ORDERED.

In re: Stephen R. Harris
Bar No.: 1463
Docket No.: 57507
Filed: February 24, 2012

ORDER OF SUSPENSION

Attorney suspended three years, stayed, with three months actual, after misappropriating money from client trust account.

This is an automatic review, pursuant to SCR 105(3)(b), of a Northern Nevada Disciplinary Board hearing panel's findings that attorney Stephen R. Harris violated two rules of

professional conduct and its recommendation that Harris serve a three-year suspension with two years and nine months stayed if Harris complies with certain conditions. We conclude that clear and convincing evidence supports the panel's findings concerning Harris's misconduct. We also approve the panel's recommended discipline.

Harris and the State Bar of Nevada do not dispute the facts that underlie this matter. Harris has been licensed to practice law in Nevada since 1974. Between January 2008 and September 2009, Harris misappropriated approximately \$788,000 from client trust accounts and his firm's general client trust account, using the funds for his personal gain.

On November 5, 2009, Harris self-reported his misconduct to the state bar. The state bar received no client or third-party complaints regarding Harris' misappropriation of the client trust funds. Prior to Harris' disciplinary hearing, he repaid all of the money to the client trust accounts with interest, denied himself access to his firm's business and trust accounts, and allowed another attorney to supervise his performance on his cases. Harris continues to deny himself access to these accounts and receive supervision from another attorney. Harris also successfully completed treatment for alcoholism and other mental disorders.

The panel held Harris' disciplinary hearing on November 9, 2010. Because Harris admitted his misconduct, the panel focused on the aggravating and mitigating evidence in his case and the appropriate discipline to recommend. At the hearing, Harris testified about his remorse for his behavior and his efforts at recovery. Harris' psychologist also testified that his alcohol dependence and mental disorders caused his misconduct and that Harris' current treatment plan would arrest any further misconduct. Several other attorneys, including Harris' wife and law partner, testified on his behalf as well. These attorneys discussed Harris' prior professionalism, his skill as a bankruptcy attorney, and the burden that a lengthy suspension would impose on his family, existing clients and the public. Finally, one of the two clients from whom Harris misappropriated funds submitted a written declaration expressing his belief that Harris should not be suspended from the practice of law and his desire to continue as Harris' client.

At the conclusion of the hearing, the panel found that Harris had violated RPC 1.15 (safekeeping of property) and RPC 8.4 (misconduct). Based upon these violations, four members of the panel recommended that Harris receive a three-year suspension with two years and nine months stayed if Harris complies with certain conditions. These conditions require that Harris: (1) have no client trust account access during the entire three-year suspension period; (2) have a mentor throughout the entire three-year suspension period, other than Jeffrey Hartman; Esq., and this mentor shall file a report with the state bar every six months; (3) pay a \$50,000 fine to the state bar's Client Protection Fund within one year of this order; (4) refrain from the use of alcohol or any other controlled substance, unless prescribed by a licensed medical doctor, throughout the three-year period; (5) continue with his outpatient recovery therapy and attendance at Alcoholics Anonymous, and submit to random alcohol/urinary analysis tests during the three-year suspension period, with his therapist submitting a report and test results to the state bar on a quarterly basis; and (6) write a letter to each of the persons who had funds in the accounts which were misappropriated within 90 days of this order and include a copy of this order with the letter.

The panel also recommended, pursuant to SCR 120, that Harris pay the costs of the disciplinary proceedings. The panel chair dissented from this recommendation because she was in favor of a harsher discipline.

Clear and convincing evidence supports the panel's findings of misconduct and the panel's recommended discipline is appropriate

While the findings and recommendations of a panel are persuasive, this court reviews a panel's decision recommending suspension de novo. SCR 105(3)(b); *In re Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992). The findings of misconduct by the panel must be supported by clear and convincing evidence. SCR 105(2)(e); *In re Stuhff*, 108 Nev. At 635, 837 P.2d at 856. Because Harris admitted to the violations, we conclude that the panel's findings of misconduct are supported by clear and convincing evidence. Therefore, we must only determine the level of discipline to impose.

In determining the appropriate discipline to impose for a particular act of misconduct, we consider "all relevant factors and mitigating circumstances on a case-by-case basis." *State Bar of Nevada v. Claiborne*, 104 Nev. 115, 219, 756 P.2d 464, 531 (1988) (quoting *Murray v. State Bar of California*, 709 P.2d 480, 485 (Cal. 1985)). Thus, we may examine any aggravating and mitigating factors that apply to a particular case when determining the degree of discipline to impose. See SCR 102.5. In doing so, we must remember that the fundamental purpose of attorney discipline is not to impose additional punishment upon the attorney, but to protect the public and maintain public confidence in the bar. *Claiborne*, 104 Nev. at 219, 756 P.2d at 531 (citing *In re Cochrane*, 92 Nev. 253, 255, 549 P.2d 328, 329 (1976)).

The state bar relies on several cases involving an attorney's intentional misappropriation of funds that resulted in the attorney's long-term suspension or disbarment. See, e.g., *In re Belz*, 258 S.W.3d 38, 44-47 (Mo. 2008) (imposing a three-year suspension on attorney for misappropriating funds over four years even though attorney self-reported, suffered from bipolar disorder and voluntarily repaid the amounts taken prior to the disciplinary proceedings); *Attorney Grievance v. Weiss*, 886 A.2d 606, 610, 618-20 (Md. 2005); *In re Disciplinary Action Against Rooney*, 709 N.W.2d 263, 272-73 (Minn. 2006). The state bar further suggests that the record reveals several aggravating factors, including a dishonest or selfish motive, repeated instances of misappropriation over almost two years and substantial experience in the practice of law. See SCR 102.5(1).

We agree with the state bar that misappropriation of client funds is one of the most serious forms of misconduct that a lawyer can commit. See *Weiss*, 886 A.2d at 618 (calling the misappropriation of funds "one of the most egregious breaches of an attorney's duty"). However, we also recognize that Harris' case presents a unique set of circumstances involving substantial mitigating factors. Harris self-reported his misconduct, made full restitution of the misappropriated funds prior to his disciplinary proceeding, addressed his alcoholism and mental disorders, and expressed extreme remorse for his conduct. We also conclude that the state bar's suggestion of adopting the panel chair's recommendation of a two-year suspension with additional conditions is not necessary to protect the public and maintain

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confidence in the state bar. The panel's recommended three-year suspension with two years and nine months stayed if Harris complies with certain conditions, is appropriate to serve the purposes of attorney discipline.

Accordingly, we suspend Harris for three years from the practice of law, beginning on the date of this order, with two years and nine months stayed if Harris complies with the panel's conditions. Given that two years and nine months of the suspension is stayed, Harris may apply for reinstatement pursuant to SCR 116 after three months. Additionally, he shall pay the \$50,000 fine within one year of this order to the state bar's Client Protection Fund. Harris also shall pay the costs of the disciplinary proceeding, pursuant to SCR 120, within 30 days of receipt of the state bar's bill of costs. Finally, Harris and the state bar must comply with the applicable provisions of SCR 115 and 121.1.

It is so ORDERED.

In re: Gary L. Myers
Bar No.: 3120
Docket No.: 59866
Filed: February 24, 2012

ORDER OF TEMPORARY SUSPENSION

Immediate temporary suspension warranted following misappropriation from trust account.

This is a joint petition by the chair of the Southern Nevada Disciplinary Board and attorney Gary L. Myers for an order temporarily suspending Myers from the practice of law, pending resolution of formal disciplinary proceedings against him.³ The petition, which Myers acknowledges to be true,⁴ alleges that Myers misappropriated from his client trust account more than \$200,000 in funds belonging to six clients, due to his failure to disburse, or timely disburse, settlement funds over a several-year period.

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, based on the joint petition, verification and supporting documentation provided, that Myers poses a substantial threat of serious harm to the public, and that his immediate temporary suspension is therefore warranted under SCR 102(4)(a). Accordingly, we hereby order attorney Gary L. Myers temporarily suspended from the practice of law pending the resolution of formal disciplinary proceedings against him. We further conclude that Myers' handling of funds should be restricted. Accordingly,

as requested by the joint petition, pursuant to SCR 102(4)(a), (b), and (c), we impose upon Myers the following conditions:

1. Myers 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 Myers' 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 Myers except upon written approval of bar counsel; and
3. Myers is prohibited from withdrawing any funds from any and all accounts in any way relating to his law practice, including but not limited to his general and trust accounts, except upon written approval of bar counsel.

The state bar shall immediately serve Myers with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Myers' place of employment or residence, or by publication.⁵ Myers shall comply with the provisions of SCR 115. Bar counsel shall comply with SCR 121.1.

It is so ORDERED.

In re: Douglas W. Nicholson
Bar No.: 3654
Docket No.: 56184
Filed: February 9, 2012

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

Suspension warranted following violations of diligence, communication and expediting litigation.

This is an automatic review of a Northern Nevada Disciplinary Board hearing panel's recommendation that we approve, pursuant to SCR 113, attorney Douglas W. Nicholson's conditional guilty plea in exchange for a stated form of discipline. Under the plea agreement, Nicholson admits to multiple violations of Rules of Professional Conduct 1.3 (diligence), RPC 1.4 (communication) and RPC 3.2 (expediting litigation). Nicholson also admits to violating RPC 1.1 (competence).⁶ These violations stem from Nicholson's misconduct involving two different clients.

The agreed-upon discipline provides that Nicholson be suspended from the practice of law for six months and one day, that he pay the actual costs of the disciplinary proceedings, and that he take and pass the Multistate Professional Responsibility Exam prior to applying for reinstatement. Nicholson also agreed that he would not object to current members of the hearing panel serving on any future reinstatement panel.⁷

Having reviewed the record, we conclude that the plea agreement should be approved. See SCR 113(1). Accordingly, attorney Douglas W. Nicholson is hereby suspended from the practice of law for six months and one day from the date of this order. The suspension is subject to the conditions of the agreement as set forth above.

It is so ORDERED.
CHERRY, J.; GIBBONS, J.; HARDESTY, J.; and
PARRAGUIRRE, J.

DOUGLAS, J.; with whom SAITTA, C.J.; and PICKERING,
J.; agree, dissenting:

I would deny the conditional guilty plea agreement tendered pursuant to Supreme Court Rule (SCR) 113.

The tendered plea is subject to final approval or rejection by the court due to the proposed suspension; I cannot approve of this conditional guilty plea agreement in light of previous disciplinary matters that occurred in 1993, 2003, 2008, and the totality of the new matters. Thus, this plea agreement needs to be rejected and sent back for new proceedings to be commenced as to the alleged violation of Rules of Professional Conduct 8.4(c) (misconduct) and then resubmitted to the court for resolution.

In re: Kent B. Hanson
Bar No.: 3729
Docket No.: 57545
Filed: February 9, 2012

ORDER OF SUSPENSION

*Suspension warranted for unauthorized practice of law.
Suspension stayed one year, and if conditions met, public
reprimand will issue.*

This is an automatic review, pursuant to SCR 105(3)(b), of a Northern Nevada Disciplinary Board hearing panel's findings that attorney Kent B. Hanson violated four rules of professional conduct and its recommendation that he be suspended from the practice of law for six months with such suspension to be stayed in order to allow him to meet certain conditions, and, if such conditions are met, that a public reprimand be issued and the suspension vacated. Having reviewed the evidence submitted and the transcript from the disciplinary hearing, we approve the panel's findings and recommendation to the extent that Hanson shall be suspended from the practice of law; however, we conclude that Hanson shall be suspended for six months and one day, with successful completion of the Multistate Professional Responsibility Examination a condition of reinstatement. This suspension shall be stayed for one year to allow Hanson the opportunity to comply with certain conditions; if those conditions are met, the hearing panel shall issue a public reprimand and the suspension shall be vacated.⁸

The facts are undisputed. Hanson became a licensed attorney in 1989, and in April 2007, he was subject to his first disciplinary action. In that instance, the grievance was concerned with Hanson's representation of Ken Bleak and his mother in a real estate dispute. The disciplinary matter was resolved with Hanson submitting a conditional guilty plea; he received a public reprimand and was ordered to refund \$876.39 to Bleak within 30 days and to reimburse the state bar for the cost of the disciplinary proceeding. Hanson, however, failed to comply with the conditions of the plea agreement and did not reimburse Bleak

until December 11, 2008, and the state bar until April 15, 2009. On February 19, 2009, the state bar filed a complaint charging Hanson with violating RPC 3.4(c) (fairness to opposing party and counsel); knowingly disobeying an obligation under the rules of a tribunal) with respect to his obligations under the conditional guilty plea to timely reimburse Bleak and the state bar.

In February 2009, Hanson was retained by Eric Grich to pursue an insurance claim against Farmers Insurance Group. However, Hanson's license to practice law had been suspended on June 18, 2008, for failure to pay his annual bar dues. Despite his suspension, Hanson continued with his representation of Grich and contacted Farmers on a number of occasions. In February 2009, Grich contacted Hanson by mail and facsimile requesting an update regarding the status of the claim. Hanson, however, did not respond to Grich's request, and in June 2009, Grich sent a second letter to Hanson indicating that he had been trying to contact Hanson for more than three months. Thereafter, Grich, by letter, terminated the attorney-client relationship and requested a refund of the retainer.

During his suspension, Hanson also represented (1) John Langon, president of Lero Enterprises, in a lawsuit; (2) Clinton and Marie Case, in a quiet title action against Richard and Lavonne Colon; and (3) Budd Longworth in a criminal matter. Each of these matters resulted in the state bar opening a separate grievance file alleging that Hanson was engaging in the unauthorized practice of law. With respect to the grievances related to the representation of the Cases and Longworth, Hanson failed to respond to the state bar's request that he respond to the allegations.

On December 28, 2009, the state bar filed a complaint charging Hanson with violating RPC 1.4 (communication) and RPC 5.5 (unauthorized practice of law) for his representation of Grich. On April 22, 2010, the state bar brought a complaint charging Hanson with violating RPC 5.5 (unauthorized practice of law) for his representation of Langon, the Cases and Longworth. Finally, the state bar charged Hanson with violating RPC 8.1(b) (bar admission and disciplinary matters) for failing to respond to its inquires relating to the Cases and Longworth grievances.

Hanson admitted to virtually all of the allegations in his answers. The panel held a consolidated hearing for all of the pending complaints on November 17, 2010. At the hearing, Hanson presented no defense at the formal hearing held by the panel and explained that he was suffering from depression and had been receiving treatment. He also stated that he was having family problems with his wife and one of his sons.

Hanson also explained that although he knew that he had to pay his bar dues, he was also refunding money to his clients at the same time and did not have the money to pay both.⁹ During his suspension, he never missed a single deadline and successfully negotiated a plea bargain and a settlement for two different matters.

The panel issued formal findings of fact and conclusions of law, which found all of the allegations to be true and concluded that Hanson violated RPC 1.4, RPC 3.4(c), RPC 5.5 and RPC 8.1(b). While the findings and recommendations of a disciplinary board hearing panel are persuasive, this court's automatic review of a panel decision recommending a suspension is conducted de

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novo, requiring the exercise of independent judgment by this court. SCR 105(3)(b); *In re Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992). In disciplinary matters, the panel's findings must be supported by clear and convincing evidence. SCR 105(2)(e); *In re Stuhff*, 108 Nev. at 634-35, 837 P.2d at 856. "To be clear and convincing, evidence 'need not possess such a degree of force as to be irresistible, but there must be evidence of tangible facts from which a legitimate inference ... may be drawn.'" *In re Stuhff*, 108 Nev. At 635, 837 P.2d at 856 (alteration in original) (quoting *Gruber v. Baker*, 20 Nev. 453, 477, 23 P. 858, 865 (1890)).

We conclude that Hanson's admissions and the evidence presented by the state bar constitute clear and convincing evidence to support the factual findings of the panel, and that Hanson violated RPC 1.4, RPC 3.4(c), RPC 5.5 and RPC 8.1(b).

After considering the aggravating¹⁰ and mitigating¹¹ circumstances, we hereby suspend Hanson from the practice of law for a period of six months and one day. Prior to petitioning for reinstatement pursuant to SCR 116, Hanson shall successfully complete the Multistate Professional Responsibility Examination. However, the suspension will be stayed for one year from the date of this order to allow Hanson the opportunity to comply with the following conditions:

- (1) Hanson will see a psychologist or psychiatrist by the end of February 2012, continue to be treated by the psychologist or psychiatrist for the next year, obtain quarterly reports that will be distributed directly to bar counsel, and follow all recommendations by the psychologist or psychiatrist;
- (2) No substantiated disciplinary complaints are filed against Hanson during the next year; and
- (3) Hanson shall pay all underlying costs for the disciplinary proceeding, exclusive of staff salaries, within 30 days of receipt of the state bar's bill of costs or within 30 days of the date of this order, whichever is later.

If these conditions are met, the hearing panel shall issue Hanson a public reprimand, and the suspension shall be vacated. In addition, Hanson and the state bar shall comply with the applicable provisions of SCR 121.1 and if necessary SCR 115 and 116.

It is so ORDERED.

SAITTA, C.J.; DOUGLAS, J.; CHERRY, J.; PICKERING, J. and PARRAGUIRRE, J.

HARDESTY, J.; with whom GIBBONS, J.; agrees, dissenting:

I dissent and conclude that the panel's recommended discipline is appropriately tailored to the circumstances.

In re: Gail J. Higgins
Bar No.: 5365
Docket No.: 58243
Filed: February 9, 2012

ORDER IMPOSING RECIPROCAL DISCIPLINE

Reciprocal discipline imposed for attorney violating duties of competence, communication and responding to discipline authorities.

This is a petition under SCR 114 to reciprocally discipline attorney Gail J. Higgins, based on discipline imposed upon her in California. On July 16, 2010, the California Supreme Court confirmed the decision and order of its state bar court, which recommended that Higgins be suspended from the practice of law in California for one year, with a stay of all but the first 30 days of suspension; be placed on probation for two years; and comply with other conditions.¹²

Higgins was disciplined in California for multiple instances of misconduct in three separate cases, including failing to: file quarterly reports as required by the terms of an earlier agreement in lieu of discipline, promptly respond to her clients' reasonable status inquiries, perform legal services with competence, promptly refund unearned costs and fees and cooperate in disciplinary investigation. Higgins was found to violate the California equivalents of NRPC 1.1 (competence), 1.16(d) (declining or terminating representation), 1.4 (communication), 3.4(c) (fairness to opposing party and counsel) and 8.1(b) (bar admission and disciplinary matters).

The California court considered mitigating and aggravating factors. In mitigation, Higgins had no prior record of discipline, displayed candor and cooperation with the California Bar,¹² was found to be under severe financial and emotional stress at the time of her misconduct, and successfully completed the court's alternative discipline program. In aggravation, Higgins committed multiple instances of misconduct.

In Nevada, Higgins failed in her duty to report within 30 days "the imposition of disciplinary sanctions in another jurisdiction." SCR 114(1). After the State Bar of Nevada was informed about Higgins's discipline from the California bar, it conducted an investigation confirming that Higgins was in fact disciplined, and filed and served upon Higgins its petition for reciprocal discipline. See SCR 114(2), (3). Higgins chose not to respond.¹⁴ See SCR 114(3).

SCR 114(4) provides that this court "shall impose the identical discipline" unless one of four exceptions applies. None of the exceptions apply in this case, and we grant the petition for reciprocal discipline. Accordingly, Higgins is suspended from the practice of law in Nevada for one year from the date of this order, with a stay of all but the first 30 days of suspension, placed on probation for two years, and must provide proof to Nevada bar counsel of compliance with the conditions of probation imposed upon her by California.¹⁵ Higgins and the State Bar of Nevada shall comply with the requirements of SCR 115 and SCR 121.1.

1. Neither Winter nor the state bar submitted a brief challenging the panel's findings and recommendation or otherwise informed this court of any intent to contest the panel's findings and recommendation. Thus, this matter was submitted for decision on the record without briefing or oral argument. See SCR 105(3)(b).
2. Because the conduct that was the subject of the panel's review occurred in 2006, the panel determined that Winter's actions violated the former Supreme Court Rules that governed attorney conduct. The current RPC became effective on May 1, 2006. Because the substance of the provisions did not significantly change when they were recodified in the current RPC, we refer to the RPC designations of the violations.
3. Myers' signature on the petition and verification are erroneously dated December 7, 2012. As that date is many months in the future, the date should be 2011 not 2012.
4. The petition is accompanied by Myers' sworn verification that the factual statements contained in the petition are true and correct, except for those matters which are supported by affidavits as for those matters, he believes them to be true.
5. When served on either Myers 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).
6. We also review the panel's findings that Nicholson violated RPC 1.8 (conflict of interest: current clients: specific rules) and did not violate RPC 8.4(c) (misconduct; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation). After reviewing the record, we conclude the panel's findings should be approved.
7. Neither Nicholson nor the state bar submitted a brief challenging the panel's findings and recommendation.
8. Neither Hanson nor the state bar submitted a brief challenging the panel's findings and recommendation.
9. We note that Hanson has since become current on the payment of his bar dues.
10. We conclude that the aggravating factors of (1) prior disciplinary offense, SCR 102.5(1)(a); (2) multiple offenses, SCR 102.5(1)(d); and (3) substantial experience in the practice of law, SCR 102.5(1)(i), are applicable.
11. The following mitigating factors apply in this case: (1) absence of a dishonest or selfish motive, SCR 102.5(23)(b); (2) personal or emotional problems, SCR 102.5(2)(c); and (3) cooperative attitude toward proceeding, SCR 102.5(2)(e).
12. These other conditions included: compliance with the California State Bar Act and the Rules of Professional Conduct; discussing terms and conditions of her discipline with the California bar's Office of Probation; and submitting quarterly reports to the Office of Probation; attending Ethics School; and taking and passing the Multistate Professional Responsibility Examination within one year of the effective date of the California Supreme Court's order.
13. Higgins displayed candor and cooperation with the California bar in only two of the three separate cases.
14. Under SCR 79, Nevada attorneys have a duty to maintain a current address with the State Bar of Nevada. SCR 114 only requires the state bar to serve a petition for reciprocal discipline on the attorney at the address provided under SCR 79 and to provide proof to this court that the petition has been served. However, before this petition was filed, the investigator for the State Bar of Nevada spoke with Higgins to confirm her mailing address and that she had in fact been disciplined by the California bar. Higgins told the investigator that she was unaware of Nevada's reporting requirement and that she would have looked into the matter further but she had suffered a heart attack in June 2010. During this call, the investigator informed Higgins of the requirements of SCR 114.
15. This suspension is separate from and in addition to Higgins's current suspension in Nevada for failure to maintain continuing legal education requirements since July 21, 2010. ■

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.