

## SUPREME COURT OF NEVADA

**In re:** Jana Gill  
**Bar No.:** 8465  
**Docket No.:** 64796  
**Filed:** February 25, 2014

### ORDER IMPOSING RECIPROCAL DISCIPLINE

*Petition for reciprocal discipline granted and attorney irrevocably disbarred.*

This is a petition, under SCR 114, to reciprocally discipline attorney Jana Gill, based on discipline imposed upon her in California. Gill did not self-report her California discipline as required by SCR 114(1), and she has not responded to the petition. See SCR 114(3). The California Supreme Court entered an order disbaring Gill from the practice of law in California on October 29, 2013.

Gill's California discipline was based on her violation of California Business and Professions Code Section 6106, which is essentially equivalent to RPC 8.4(c) (engaging in misconduct involving dishonesty, fraud, deceit or misrepresentation). Specifically, Gill misappropriated \$120,000 from a trust for which she was the trustee. Although she agreed to make restitution to the trust once her theft was discovered, she only made two restitution payments and then ceased making restitution. Gill stipulated to the facts and agreed that she violated Section 6106 of the California Business and Professions Code. In mitigation, the California panel noted Gill's cooperation with the proceedings. In aggravation, the hearing panel found that Gill caused significant harm to a client and was indifferent to making restitution.

SCR 114(4) provides that this court shall impose identical reciprocal discipline unless the attorney demonstrates, or this court finds, either:

- a. There was a lack of due process in the other jurisdiction;
- b. The decision of the other jurisdiction lacked fairness due to infirmity of evidence;
- c. The misconduct deserves a punishment substantially different than that imposed by the other jurisdiction; or
- d. The acts do not constitute misconduct in Nevada. Discipline elsewhere is res judicata, as SCR 114(5) also provides, "[i]n all other respects, a final adjudication in another jurisdiction that an attorney has engaged in misconduct conclusively establishes the misconduct for the purposes of a disciplinary proceeding in this state."

None of the exceptions are present in this case.<sup>1</sup> Accordingly, we grant the petition for reciprocal discipline. Gill is hereby irrevocably disbarred from the practice of law in the state of Nevada. SCR 102(1). Gill and the State Bar of Nevada shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

## NORTHERN NEVADA DISCIPLINARY BOARD

### LETTER OF REPRIMAND

**File No. NG12-1662**

*Attorney reprimanded after failure to register as a multi-jurisdictional law firm with the state bar and for failure to properly terminate representation.*

In January 2009, Clients entered into a fee agreement with a debt law firm. On March 30, 2009, Clients filed their Chapter 7 bankruptcy petition. Shortly thereafter they began having problems contacting the debt law firm.

In March 2010, Clients received an e-mail from Attorney A informing them that their attorney was no longer employed by the debt law firm, that the law firm was no longer in business, that Attorney worked for Bankruptcy Firm and that she had taken the other attorney's place. Clients contacted Attorney A to request that Attorney A write a letter to their mortgage lender stating that they could deal directly with the lender regarding a loan modification. Attorney A wrote that letter for Clients. From this, Clients assumed that Attorney A was now their lawyer with regard to the bankruptcy even though they did not immediately respond to an invitation to come in to meet with Attorney A.

In late December of 2010, Clients attempted to contact Attorney A, who was away from the office, and eventually contacted someone in the Sacramento branch office who told Clients that they were not currently represented by Bankruptcy Firm and if they wanted Attorney A to represent them they would need to have Attorney A substitute in as their attorney of record. Clients eventually did meet with Attorney A on January 25, 2011, and apparently believed that Attorney A represented them in their bankruptcy.

In August 2011, Clients were able to negotiate a loan modification on their own. However, by April 2012, they had fallen behind on payments on the modified loan and the lender filed a Motion for Relief from Stay. Clients were directly served with a copy of the motion and allege that they attempted to contact Attorney A with no success. Clients' last contact with Attorney A was on May 22, 2012, and on

July 20, 2012, an order was entered granting the mortgage company relief from the stay.

Accordingly, Attorney A was **REPRIMANDED** for having violated RPC 1.16 (Declining or Terminating Representation) and RPC 7.5A (Multi-Jurisdictional Law Firms).

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## File No. NG13-0541

*Attorney reprimanded for fee agreement that shared fees with non-lawyer.*

A Screening Panel of the Northern Nevada Disciplinary Board reviewed the grievance filed by Client and Attorney's response. The panel determined that there was no clear and convincing evidence that the work Attorney performed in the course of assisting Client with her divorce demonstrated a violation of the Rules of Professional Conduct.

However, the panel did review Attorney's Attorney Fee Agreement with Client and determined that the second paragraph on the first page, which appears below, violates the prohibition against sharing fees with non-attorneys.

*Client agrees to Hire Paralegal Service to perform all necessary paperwork regarding client's case; Client agrees to pay \$500 through and including Settlement Conference. Should this case go to trial additional Paralegal fees and costs will need to be negotiated between client and Paralegal Service. Said payment to paralegal will be paid at \$50 biweekly commencing October 16, 2012, and biweekly thereafter until paid in full.*

Accordingly, Attorney was **REPRIMANDED** for having violated RPC 5.4(a).

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## SOUTHERN NEVADA DISCIPLINARY BOARD

### File No. SG13-0380

*Attorney reprimanded and fined \$500 for failure to timely distribute settlement funds.*

In or about October 2006, Client retained Attorney to represent her in a personal injury matter. Client's case settled in late 2007 for \$50,000, and she was given a check for \$9,000 as her portion of the settlement. At the

time her case settled, Client believed that all her medical liens had been paid. In her March 13, 2013, grievance to the state bar, Client complained that she had recently discovered that her medical bills had not, in fact, been paid, and that liens from two providers had gone to collections.

Client contacted Attorney on or about February 6, 2013, and was advised that the funds to pay her medical liens had been sitting in the trust account since 2008, and Attorney would now pay these, and pay her any remaining balance. On or about February 28, 2013, Client received a phone call from Attorney's secretary and was advised that all the bills had been paid and that she would receive a written breakdown and the remaining balance within the next week. However, as of the date of her grievance, Client had not heard further from Attorney.

In Attorney's response to the state bar, Attorney confirmed that Client's case settled with the tortfeasor on January 2, 2008, for \$50,000. On February 8, 2008, Attorney also reached a settlement with Client's UIM carrier for an additional \$15,000. Thereafter, Attorney provided Client with her portion of the settlement that was not in dispute. At that time, Attorney believed that Client was in the process of pursuing payment of the medical bills through a separate worker's compensation claim, and Attorney was not retained in that matter. Attorney alleged that he advised Client to contact him if she was not successful in obtaining payment of her medical bills through her worker's compensation claim, and Attorney stated that he had maintained the \$35,000 balance in his trust account pending further instruction from Client.

Attorney knew that Client had a worker's compensation hearing set for June 9, 2008, but Attorney was never notified of the results of that hearing by either Client or her worker's compensation attorney. Attorney also indicated that he had never been contacted by any of Client's lienholders regarding payment.

Attorney claimed that when Client contacted him on December 27, 2012, it was the first time he learned that worker's compensation had not covered her medical bills. Thereafter, Attorney's office immediately contacted Client's medical providers and negotiated the liens. The two bills that had gone to collections were handled first, and these were paid in February 2013. The other liens were then negotiated, and Client signed the final distribution sheet on April 15, 2013. Checks to the remaining medical providers were then issued. A check for \$7,635, representing the balance due to Client, was sent to her via overnight mail on April 16, 2013.

In this matter, Attorney allowed Client's settlement funds to remain in his account for five years without taking any affirmative action to ascertain the status of Client's matter, and distribute the remainder of the funds.

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# bar counsel report

Based on the foregoing Attorney was **REPRIMANDED** and **FINED \$500** for violations of RPC 1.3 (Diligence) and RPC 1.15 (Safekeeping Property).

## File No. 08-166-0171

*Attorney reprimanded for failing to advise client that she could consult with a lawyer before investing money in an annuity in which attorney received commission.*

On August 2, 2012, a Formal Hearing Panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. Pursuant to a Conditional Guilty Plea entered into between Attorney and the state bar, the panel concluded that Attorney violated the Rules of Professional Conduct and should be issued a Letter of Reprimand.

In August of 2004, Client retained Attorney services to prepare an Estate Plan. Client, at the time of retention, was 94 years old. The Estate Plan was completed and executed on September 30, 2004.

Following the completion of the Estate Plan, Attorney kept in touch with Client. On October 24, 2006, at Attorney's direction, Client withdrew \$250,000 from Credit Union and reinvested the funds in annuities, for which Attorney was paid commissions. At no time did Attorney advise his client in writing that she was entering into a business transaction for which Attorney would be receiving compensation, separate and apart from legal fees, or that she should consider consulting another attorney to determine whether the transaction was in her best interests.

In his response to the state bar, Attorney stated, "I referred my Client to a team of highly-qualified financial advisors because of doubts that I had regarding my Client's accounts. I am licensed with the Nevada Division of Insurance. I received a proper and nominal partial commission from the advisors after they were able to help my Client. The nominal commission was disclosed to and approved by my Client."

Accordingly, Attorney was **REPRIMANDED** for having violated RPC 1.8 (Conflict of Interest: Current Clients: Specific Rules). ■

1. Gill is also delinquent in paying her Nevada bar dues, and has been suspended in Nevada since 2009.

## 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 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.