

bar counsel report

SUPREME COURT OF NEVADA

In re: Lynn R. Shoen
Bar No.: 1197
Docket No.: 65034
Filed: April 23, 2014

ORDER OF TEMPORARY SUSPENSION

Attorney temporarily suspended pending a formal hearing pursuant to SCR 102 after misappropriating and misusing her trust account.

This is a petition by the state bar, through the Southern Nevada Disciplinary Board, for an order temporarily suspending attorney Lynn R. Shoen from the practice of law, pending the resolution of formal disciplinary proceedings against her. The petition and supporting documentation demonstrate that Shoen misappropriated and misused client funds from client trust accounts.¹

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 that the documentation before us demonstrates that Shoen poses a substantial threat of serious harm to the public, and that her immediate temporary suspension is warranted under SCR 102(4) (a). Accordingly, we hereby order attorney Lynn R. Shoen temporarily suspended from the practice of law pending the resolution of formal disciplinary proceedings against her.

We further conclude that Shoen's handling of funds should be restricted. Accordingly, pursuant to SCR 102(4) (a), (b) and (c), we impose upon Shoen the following conditions:

1. Shoen 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 Shoen's practice of law and all fees and other funds received from or on behalf of her clients shall, from the date of service of this order, be deposited into a trust account from which no withdrawals may be made by Shoen except upon written approval of bar counsel; and

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

The state bar shall immediately serve Shoen with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Shoen's place of employment or residence, or by publication.² Shoen shall comply with the provisions of SCR 115.

It is so ORDERED.

In re: Chandan Manansingh
Bar No.: 12033
Docket No.: 65233
Filed: April 25, 2014

ORDER OF TEMPORARY SUSPENSION AND REFERRAL TO THE DISCIPLINARY BOARD

Attorney temporarily suspended and referred to the state bar for formal disciplinary proceedings following a Federal felony conviction of introduction of misbranded drugs into interstate commerce with the intent to defraud or mislead.

Bar Counsel for the State Bar of Nevada has petitioned this court, pursuant to SCR 111, to enter an order temporarily suspending attorney Chandan Manansingh from the practice of law and referring him to the appropriate board for discipline. The petition is supported by certified copies of documents indicating that Manansingh entered a plea of guilty in the United States District Court, District of Maryland, to one count of introduction of misbranded drugs into interstate commerce with the intent to defraud or mislead, a felony under 21 U.S.C. §§ 331(a) and 333(a) (2). See 18 U.S.C. § 3559. The judgment of conviction was entered on November 26, 2013. Manansingh was sentenced to three years of probation and home detention with location monitoring for a period of four months. Additionally, Manansingh is required to pay a \$250,000 fine in \$1,000 monthly installments.

Having reviewed the petition and the supporting documentation submitted by bar counsel, we conclude that the petition conclusively establishes Manansingh's conviction of a serious crime warranting temporary suspension. See SCR 111(1), (6) and (7). Accordingly, we temporarily suspend Manansingh from the practice of law and refer this matter to the Southern Nevada Disciplinary Board for the initiation of formal disciplinary proceedings, in which the sole issue to be determined is the extent of discipline to be imposed.³ See SCR 111(8).

It is so ORDERED.

In re: Robert J. Fry
Bar No.: 702
Docket No.: 64901
Filed: March 27, 2014

ORDER OF TEMPORARY SUSPENSION AND REFERRAL TO THE DISCIPLINARY BOARD

Attorney temporarily suspended and referred to the state bar for formal disciplinary proceedings following a federal felony conviction of harboring an alien.

This is a petition by bar counsel filed pursuant to SCR 111(4) regarding attorney Robert J. Fry, requesting that this court enter an order temporarily suspending Fry from the practice of law and referring him to the appropriate board for discipline. The petition is supported by certified copies of documents evidencing Fry's conviction in the United States District Court, District of Nevada, pursuant to a guilty plea of one count of harboring an alien in violation of 8 U.S.C. § 1324(a)(1)(A)(iv), a felony. See SCR 111(1).

Pursuant to SCR 111, temporary suspension and referral to the appropriate disciplinary board are mandatory when an attorney has been convicted of a "serious" crime, which includes a felony. SCR 111(6)(8). Having reviewed the petition and the supporting documentation submitted by bar counsel, we conclude that the petition conclusively establishes Fry's conviction of a serious crime. Accordingly, we temporarily suspend Fry from the practice of law and refer this matter to the Northern Nevada Disciplinary Board for the initiation of formal disciplinary proceedings in which the sole issue to be determined is the extent of discipline to be imposed. See SCR 111(7), (8).

It is so ORDERED.

In re: James S. Kent
Bar No.: 5034
Docket Nos.: 61176, 62574
Filed: April 23, 2014

ORDER

Attorney suspended for two years, with two months actual suspension and the remainder of the two-year suspension stayed pending compliance of various conditions, for failure to diligently pursue cases, communicate with clients, safekeep property and supervise non-lawyer assistants. Conditions imposed included taking CLEs, restitution and costs.

These are automatic reviews of Southern Nevada Disciplinary Board hearing panel recommendations that attorney James S. Kent be suspended from the practice of law for two months, with conditions (Docket No.

61176), see SCR 105(3)(b), and that we approve Kent's conditional guilty plea in exchange for a stated form of discipline (Docket No. 62574), see SCR 113.

The violations in these two matters arise primarily from Kent's involvement with Consumer Advocacy Group (CAG), a purported loan-modification organization. Kent merged his law office with CAG and took over several hundred open files. After this merger, Kent failed to diligently pursue clients' cases, did not communicate with clients, did not properly safekeep client funds and failed to properly supervise non-lawyer employees.

After a three-day hearing in the proceeding underlying Docket No. 61176, the panel found that Kent had committed 31 violations of the Rules of Professional Conduct, including violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 5.3 (responsibilities regarding non-lawyer assistants), RPC 5.4 (professional independence of a lawyer) and RPC 5.5 (unauthorized practice of law). The panel recommended that Kent be suspended from the practice of law for two months, take an additional 10 hours of CLE (five in law office management and five in attorney ethics), pay restitution totaling \$16,740 to six clients, no later than five years after the date of the panel's recommendation, and pay the costs of the proceeding within 30 days of receipt of the bill of costs.

In the proceeding underlying Docket No. 62574, Kent and the state bar entered into a conditional guilty plea in exchange for a stated form of discipline. Kent pleaded guilty to 21 violations of the RPCs, including violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 3.2 (expediting litigation), RPC 5.3 (responsibilities regarding non-lawyer assistants), RPC 5.4 (professional independence of a lawyer) and RPC 5.5 (unauthorized practice of law). The stated form of discipline provides for a two-year suspension, with that suspension stayed pending compliance with the conditions that:

1. Kent promptly respond to requests from the state bar, including requests for bank statements and case lists; and
2. That Kent not be the subject of any further public discipline.

The panel also recommended that Kent pay the actual costs of the proceedings, not including Bar Counsel and staff salaries, within two years of receipt of the state bar's bill of costs, and pay restitution totaling \$10,250 to four clients within two years of the recommendation. The agreement specified that Kent is to open a bank account and begin making monthly payments of \$500 per month to that account for the purpose of paying restitution and costs from the account,

continued on page 46

bar counsel report

and to submit quarterly statements to the bar evincing his compliance with this requirement. Kent also agreed not to file an opening brief in Docket No. 61176.

Having reviewed the record, we conclude that clear and convincing evidence supports the panel's findings that Kent committed the violations set forth in Docket No. 61176, SCR 105(2)(f), and that Kent committed the violations to which he pleaded guilty in Docket No. 62574. We further conclude that the recommended discipline is appropriately tailored to the circumstances. We therefore approve the hearing panel recommendations, with one minor exception noted below. Kent is hereby disciplined as follows:

- Kent shall be suspended from the practice of law for two years. Kent shall serve an actual suspension of two months, and the remainder of the two-year suspension shall be stayed, pending Kent's compliance with the conditions that he:
 1. Promptly respond to requests from the state bar, including requests for bank statements and case lists; and
 2. That he not be the subject of any further public discipline.⁴
- In addition to the customary annual CLE requirements, if he has not already done so, within the next two years Kent shall take an additional five hours of CLE in law office management and five in attorney ethics. The state bar shall have authority to determine which classes meet these requirements.
- Kent shall pay the costs of the proceedings in Docket No. 61176 within 30 days of receipt of the state bar's bill of costs, and in Docket No. 62574 within two years of receipt of the state bar's bill of costs.
- Kent shall make restitution in the total amount of \$26,990 to ten clients. Specifically, by April 17, 2017, Kent shall pay \$16,740 in restitution to the six clients specified by the panel in Docket No. 61176, and by December 6, 2014, he shall pay \$10,250 to the four clients specified by the panel in Docket No. 62574. If he has not already done so within 30 days, Kent must open a bank account into which he pays a minimum of \$500 per month toward restitution and costs and must submit quarterly reports to the state bar showing his compliance with this requirement.

Kent shall comply with SCR 115. The state bar shall comply with SCR 121.1.

It is so ORDERED.⁵

In re: Douglas W. Nicholson
Bar No.: 3654
Docket No.: 63642
Filed: March 11, 2014

ORDER

Attorney reinstated to the practice of law following a six month and one day suspension.

This is a petition for reinstatement to the practice of law, pursuant to SCR 116, filed by suspended attorney Douglas W. Nicholson. In February 2012, this court suspended Nicholson for six months and one day. *See In re Discipline of Nicholson*, Docket No. 56184 (Order Approving Conditional Guilty Plea Agreement, February 9, 2012). On May 20, 2013, Nicholson filed a petition for reinstatement pursuant to SCR 116. On June 11, 2013, a hearing was held before a panel of the Northern Nevada Disciplinary Board. At the conclusion of the hearing, the panel issued its findings of fact, conclusions of law and recommendation, recommending that Nicholson be reinstated to the practice of law.

The panel concluded that Nicholson largely completed the conditions precedent to petitioning for reinstatement, with the exception of repaying the cost of the disciplinary proceeding, which equated to \$1,718.50, at the time of the reinstatement hearing. However, after hearing testimony regarding Nicholson's inability to repay this cost, the panel accepted the parties' agreed-upon payment plan for outstanding costs, which required Nicholson to pay \$200 each month, starting in July 2013, until the balance was paid in full. The panel also found Nicholson had demonstrated by clear and convincing evidence that he satisfied the standards for reinstatement set forth in SCR 116. The panel recommended that:

1. Nicholson's petition be granted;
2. The requirement of repayment be waived as a condition precedent; and
3. This repayment obligation become a condition concurrent with reinstatement, in accord with the payment plan.

Following the issuance of the panel's recommendations, the record of the reinstatement proceedings was filed in this court for our review. *See SCR 116*. Subsequently, the state bar filed a notice of noncompliance, indicating that Nicholson only made one \$200 payment in July 2013. In response, this court ordered Nicholson to show cause why his petition should not be denied in light of his noncompliance with the payment plan. Nicholson replied that he submitted two checks to the state

bar, which satisfied the unpaid balance of the disciplinary hearing costs. After receiving Nicholson's checks, the state bar filed a notice of compliance, reiterating that Nicholson has satisfied the unpaid balance.

It is undisputed that Nicholson did not satisfy the condition of repayment of the disciplinary proceeding costs prior to petitioning for reinstatement. However, because the parties indicate that Nicholson has now satisfied the unpaid balance, the condition of repayment appears to have been met. Thus, we will consider the merits of Nicholson's petition for reinstatement.

SCR 116(2) requires that 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.

After careful consideration of the record, we conclude that clear and convincing evidence supports the panel's findings and conclusions. We therefore approve the panel's recommendation that the petition for reinstatement be granted.

While we approve the panel's recommendation for reinstatement in the instant matter, we note that Nicholson is currently suspended for failure to meet his yearly continuing legal education requirements, failing to disclose required information and failing to pay his bar dues. Thus, Nicholson must become current with each of these administrative requirements before he is reinstated to the practice of law. See SCR 213; SCR 78.5; SCR 79; SCR 98; NRS 7.034; NRS 425.520; RPC 6.1.

It is so ORDERED. ■

1. Shoen filed a response to the petition and the state bar filed a reply. We have considered both filings as part of our determination in this matter.
2. When served on either Shoen or a depository in which she 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).
3. The suspension in this matter is in addition to Manansingh's existing suspension for failure to remain current with his continuing legal education credit requirements. See *In re Application of the Bd. Of Continuing Legal Educ.*, Docket No. 63647 (Order Dismissing Petition as to Certain Respondent Attorneys and Granting Petition as to Certain Respondent Attorneys, April 10, 2014); SCR 212.
4. The agreement between Kent and the state bar contemplated that these conditions would expire December 6, 2014, but we conclude that these conditions are appropriate and shall remain in effect for the entire term of Kent's suspension.
5. As Kent agreed not to file an opening brief in Docket No. 61176, we take no action on the parties' stipulation to extend the time to file an opening brief in that matter.

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. June also include up to a \$1,000 fine and restitution. Remains eligible to practice.

ADMINISTRATIVE SUSPENSION – Attorneys June 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.