

In Re: ELIZABETH T. ZAGAJESKI
Bar No.: 10808
Case No.: 71047
Filed: December 12, 2016

ORDER OF SUSPENSION

Attorney suspended five years, with three years stayed, following a conditional guilty plea.

A Southern Nevada Disciplinary Board hearing panel recommended a conditional guilty plea agreement for attorney Elizabeth Zagajeski for a five-year suspension, with three years stayed. The Supreme Court agreed with the recommendation.

Between 2010 and 2013, Zagajeski agreed to represent nine clients, accepted fees from most of them, failed to communicate with most of them and failed to complete work on their behalf. Zagajeski failed to respond to the bar complaints filed by most of those clients and abandoned her practice. She was also convicted of two misdemeanors for battery/domestic violence, two failures to appear after an admission to bail or release without bail, and a misdemeanor for nonsufficient funds on a check for less than \$650.

The Supreme Court temporarily suspended Zagajeski on February 17, 2016, pending a disciplinary hearing. She had been administratively suspended for failure to pay annual license fees and failure to comply with mandatory continuing legal education requirements.

The panel concluded that Zagajeski had nine violations of RPC 1.1 (competence), one violation of RPC 1.2 (scope of representation), eight violations of RPC 1.3 (diligence), eight violations of RPC 1.4 (communication), eight violations of RPC 1.5 (fees), seven violations of RPC 1.15 (safekeeping property), one violation of RPC 1.15 (safekeeping property; returning client file), eight violations of RPC 1.16 (declining or terminating representation), seven violations of RPC 8.1 (bar admission and disciplinary matters) and one violation of RPC 8.4(b) (misconduct: criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice law). The panel found two aggravating factors: a pattern of misconduct and multiple offenses. It found five mitigating factors:

1. Absence of a prior disciplinary record;
2. Personal or emotional problems;
3. Mental disability or chemical dependency, including alcoholism or drug abuse;
4. Remorse; and
5. A cooperative attitude towards the bar proceedings.

The panel recommended the court approve a conditional guilty plea agreement, under which Zagajeski would be suspended for five years, with

three years stayed subject to the following probationary conditions. That:

1. Zagajeski attend and comply with NPAP protocol;
2. She is prohibited from engaging in the solo practice of law;
3. She must obtain a mentor who will submit quarterly reports to the state bar; and
4. She must not be subject to any new findings of misconduct warranting discipline.

Additionally, Zagajeski must pay restitution as described in her plea agreement, engage in binding fee dispute arbitration with one of the complaining clients and pay the costs of the disciplinary proceedings (excluding bar counsel and staff salaries).

In Re: BRIAN M. KEITH
Bar No.: 4110
Case No.: 71327
Filed: December 15, 2016

ORDER IMPOSING TEMPORARY SUSPENSION

Attorney temporarily suspended following misdemeanor conviction, pending results of a formal disciplinary hearing.

The court temporarily suspended attorney Brian Keith, following his conviction for one count of driving under the influence, a misdemeanor. Keith self-reported the conviction to the state bar.

Because the crime is not one of those specifically enumerated in SCR 111(6) as a "serious" crime, temporary suspension and referral to the disciplinary board are discretionary with the court. However, because Keith demonstrated such a pattern (a prior felony DUI conviction, a prior misdemeanor DUI conviction and three previous DUI arrests), it appears that the instant conviction is not a minor offense and adversely reflects on his fitness to practice law. The court ordered Keith to show cause why he should not be temporarily suspended from the practice of law pending resolution of formal disciplinary proceedings. He has not responded.

The court temporarily suspended Keith from the practice of law in Nevada pending resolution of formal disciplinary proceedings.

In Re: PETER C. NUTTALL
Bar No.: 10704
Case No.: 70952
Filed: December 21, 2016

ORDER OF SUSPENSION

Attorney suspended for one year, retroactive to June 30, 2016, following violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 5.3 (responsibilities regarding nonlawyer assistants) and RPC 8.4(d) (misconduct).

A Southern Nevada Disciplinary Board hearing panel recommended attorney Peter Nuttall be suspended for one year.

Nuttall did not respond to the bar complaint in this matter, thus the allegations were deemed admitted.

Nuttall relied on a paralegal, whom he had hired to work with on the filing of a bankruptcy petition, despite Nuttall's lack of familiarity with that area of the law. He relied on the paralegal to obtain original signatures of his clients prior to the filing of the bankruptcy petition, which the paralegal failed to do, and Nuttall only reviewed an electronic version of the filing. Nuttall knew the petition was inadequate when it was filed, intending to amend it later. The bankruptcy court twice dismissed the petition and ordered Nuttall to return \$2,300 to his clients. Additionally, Nuttall had two misdemeanor offenses for driving under the influence (DUI). Nuttall has violated RPC 1.1 (competence), RPC 1.3 (diligence), RPC 5.3 (responsibilities regarding nonlawyer assistants) and RPC 8.4(d) (misconduct).

As recommended by the panel, the court suspended Nuttall for one year, retroactive to June 30, 2016. Prior to reinstatement, Nuttall is required to repay his client \$2,300, complete 10 hours of continuing legal education in ethics and pay the costs of the bar proceedings, excluding Bar Counsel and staff salaries.

In Re: RANDOLPH H. GOLDBERG
Bar No.: 5970
Case No.: 71070
Filed: December 21, 2016

ORDER OF SUSPENSION

Attorney suspended for four years and nine months, retroactive to April 25, 2013, following admissions of multiple violations.

A Southern Nevada Disciplinary Board hearing panel recommended a conditional guilty plea agreement for attorney Randolph Goldberg.

As part of the pleading, Goldberg admitted to violations of RPC 1.1 (competence), RPC 1.2 (scope of representation), RPC 1.2 (scope of representation and allocation of authority between client and lawyer), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 3.1

(meritorious claims and contentions), RPC 3.3 (candor toward the tribunal) and RPC 5.3 (responsibilities regarding nonlawyer assistants).

The violations occurred during Goldberg's representation of bankruptcy clients between 2006 and 2009. The record showed that clients who had retained Goldberg for assistance with their bankruptcy filings were asked to fill out a personal information packet on a computer at Goldberg's office, without being informed that doing so served as their credit counseling class; the clients were then confused when a certificate of completion of the class was filed with the bankruptcy court. Additionally, clients were often referred to Goldberg's paralegal for assistance, and many clients believed the paralegal was an attorney, based on the advice he provided, Goldberg's introduction of him and the paralegal's appearance at creditor meetings. In addition to the above-described violations, Goldberg admitted to violating RPC 8.4(b) (misconduct: criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer), as a result of his 2013 felony conviction for federal income tax evasion.

The conditional guilty plea called for a suspension from the practice of law for four years and nine months retroactive to April 25, 2013, the date of Goldberg's temporary suspension. The plea required Goldberg to:

1. Have a mentor for two years upon his reinstatement;
2. Complete 12 hours of CLE in office management and an additional 3 CLE ethics hours;
3. Pay a \$5,000 fine; and
4. Pay the costs of the disciplinary proceedings.

The court approved the conditional guilty plea agreement and suspended Goldberg from the practice of law for four years and nine months retroactive to April 25, 2013, with the following terms: Goldberg must complete 12 hours of CLE in office management and an additional three hours of CLE in ethics, pay a \$5,000 fine and pay the costs of the disciplinary proceedings, excluding bar counsel and staff salaries. Upon his reinstatement, for two years Goldberg must have a mentor with a minimum of 10 years of general practice experience.

In Re: RAYMOND J. DUENSING
Bar No.: 9385
Case No.: 71081
Filed: December 21, 2016

ORDER OF SUSPENSION

Attorney suspended for three years, or for the length of his probation, whichever is longer, following several felony convictions.

A Southern Nevada Disciplinary Board hearing panel recommended the Supreme Court suspend

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attorney Raymond Duensing for a period of three years or for the term of his probation, whichever is longer.

Duensing did not file an answer to the bar's complaint, so the court deemed the allegations admitted.

Duensing violated RPC 8.4(b) (misconduct: criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice law) as a result of his felony convictions for resisting a public officer with the use of a firearm, unlawful possession of a firearm while he was an unlawful user of or addicted to a controlled substance and carrying a concealed weapon. Duensing was sentenced to 18-48 months in prison, but the sentence was suspended, and he was placed on probation for a period of time not to exceed five years subject to the following conditions:

1. He be placed on intensive supervision, including a period of house arrest to be determined by his probation officer;
2. He undergo a mental health evaluation and complete any recommended counseling;
3. He not use or possess any alcohol during his probation;
4. He have no contact with the police officer that he resisted; and
5. He comply with the curfew imposed by his probation officer.

As a result of the criminal convictions, Duensing has been temporarily suspended from the practice of law since March 27, 2015.

The court suspended Duensing from the practice of law for the term of his felony probation or for a term of three years, beginning retroactively on March 27, 2015, whichever is longer. Duensing shall comply with all terms of his probation and shall pay the costs of the disciplinary proceedings, excluding Bar Counsel and staff salaries, before seeking reinstatement.

Resignations, No Discipline Pending

Petitioner	Bar No.	Case No.
Stephen M. Hopkins	5022	71964
David A. Honicky	5670	71965
Mary Anne Decaria	0024	71966
James M. O'Reilly	767	71963
Lisa A. Napoli	6071	71959
Theodore J. Schroeder	1009	71958
James M. Nave	2423	71962
Janet P. Rose	3435	71956
Thomas R.C. Wilson II	1568	71960

TIPS FROM THE OFFICE OF BAR COUNSEL

Q: A colleague of mine recently had a health scare, and it made me concerned about the future of my own solo practice should I suddenly pass away or become incapacitated. Are there steps I can take to safeguard my client's accounts?

The important issue to consider is the one you already have, providing for your clients if something should happen to you.

There's no hard and fast rule about what you must do; however, there is definitely something you should do. The way to move forward should be to create a professional will, which can stipulate who you want to take over your accounts. If you're in a small firm, it might make sense to include your partner(s) as the executors. If you're a solo, perhaps a close friend or colleague you trust.

If you don't provide a specific name or course of action, the state bar will be forced to take over the practice or find an attorney to do so, under Supreme Court Rule 118. But you're the one who best knows your clients and what's in their best interest, and you know best who would be ideally suited to carry those wishes forward.