

**In Re: PATRICE D. PEREZ**  
**Bar No.: 7860**  
**Supreme Court Case No.: 70700**  
**Filed: September 22, 2016**

### ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

Attorney suspended for six months and one day following guilty plea to violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping of property), RPC 8.4(c) (misconduct-misrepresentation) and RPC 8.4(d) (misconduct-prejudicial to the administration of justice).

A Southern Nevada Disciplinary Board hearing panel recommended a conditional guilty plea agreement for attorney Patrice Perez. The Court Order for a six-month-and-one-day suspension is as follows:

“The record before this court indicates that Perez was admitted to practice law in the state of Nevada in 2001, and in 2005 she represented five clients in a personal injury action. Prior to the filing of the complaint, one of her clients executed a notice of lien and assignment of proceeds of claim in favor of Insight Mountain Diagnostic (IMD), of which Perez was aware. All five clients agreed to settle the action in November 2008 and Perez received settlement checks on their behalf in December 2008. Because she was unable to locate her clients she did not disburse the settlement checks or deposit them in her trust account, nor did she notify IMD of the settlement. IMD’s third party administrator Med-Care Solutions, LLC contacted Perez numerous times in 2011, for a status check on the action and the payment of funds and she informed Med-Care that she was still negotiating the action. In November 2011, Perez had the checks reissued and provided one of her clients with his settlement check. She did not disburse the other checks, deposit the funds into her trust account, interplead the funds in court or pay herself any fees for her representation. She also did not notify IMD or Med-Care of the new check. Perez left the checks in her file uncashed. Perez closed her law practice in December 2011, and became an inactive member of the State Bar of Nevada in February 2013.

Perez fully cooperated with the state bar in this disciplinary proceeding and entered into a conditional guilty plea agreement in exchange for a stated form of discipline. The hearing panel concluded that Perez violated RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping of property), RPC 8.4(c) (misconduct-misrepresentation) and RPC 8.4(d) (misconduct-prejudicial to the administration of justice) for failing to communicate with her clients regarding the settlement funds, failing to promptly and diligently disburse the settlement funds to her clients and/or lienholders or to interplead the funds, and misrepresenting the status of the personal injury matter to her client’s lienholder. The panel found no aggravating factors and six mitigating factors:

1. The absence of prior discipline (SCR 102.5(2)(a));
2. The absence of a selfish motive (SCR 102.5(2)(b));
3. Perez’s full and free disclosure to the disciplinary authority and cooperative attitude toward the proceeding (SCR 102.5(2)(e));
4. The delay in the disciplinary proceedings (SCR 102.5(2)(g));
5. The imposition of other penalties or sanctions (SCR 102.5(2)(1)); and
6. Perez’s remorse (SCR 102.5(2)(m)).

Perez agreed to a six-month-and-one-day suspension and to reimburse the state bar up to \$2,500 for attorney fees

and costs incurred in retaining an attorney to disburse or interplead the settlement funds. Perez also agreed to pay the costs of the bar proceedings, excluding Bar Counsel and staff salaries.

Based on our review of the record, we conclude that the guilty plea agreement should be approved. Considering the duties violated and the mitigating circumstances, we conclude that the six month-and-one-day suspension is sufficient to serve the purpose of attorney discipline. Accordingly, we hereby suspend Patrice Perez from the practice of law in Nevada for a period of six months and one day commencing from the date of this order. Perez shall also reimburse the state bar up to \$2,500 for attorney fees and costs incurred in retaining an attorney to disburse or interplead the settlement funds in accordance with her agreement with the state bar. Perez shall also pay the costs of the bar proceedings, excluding Bar Counsel and staff salaries, before February 28, 2017. The parties shall comply with SCR 115 and 121.1.”

**In Re: WILLIAM SWAFFORD**  
**Bar No.: 11469**  
**Supreme Court Case No.: 70200**  
**Filed: September 22, 2016**

### ORDER OF SUSPENSION

Attorney suspended three months for violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 3.3 (candor toward the tribunal), RPC 8.4(a) (misconduct: assisting another in violating an RPC), RPC 8.4(c) (misconduct: misrepresentation), and RPC 8.4(d) (misconduct: conduct prejudicial to the administration of justice) and a consecutive suspension of three months for a violation of RPC 1.15 (safekeeping of property).

A Northern Nevada Disciplinary Board hearing panel recommended a one-year suspension for attorney William Swafford. The Court Order for a three-month suspension is as follows:

“This is an automatic review under SCR 105(3)(b) of the Northern Nevada Disciplinary Board hearing panel’s findings of fact, conclusions of law and recommendation that attorney William Swafford be suspended from the practice of law for one year based on violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 3.3 (candor toward the tribunal), RPC 8.4(a) (misconduct: assisting another in violating an RPC), RPC 8.4(c) (misconduct: misrepresentation), and RPC 8.4(d) (misconduct: conduct prejudicial to the administration of justice), to run concurrently with a six-month-and-one-day suspension based on his violation of RPC 1.15 (safekeeping of property). The panel further recommends that Swafford pay to the state bar the actual costs of the hearing and mailing expenses plus \$500 for staff and counsel salaries.

The violations relate to Swafford:

1. Assisting another attorney in violating professional conduct rules concerning conflicts of interest;
2. Failing to diligently represent a client in a criminal matter; and
3. Overdrawing his IOLTA account.

First, Swafford knowingly assisted another attorney in representing two brothers, Eugene and Alejandro Pardo, with conflicting interests in a criminal matter. At the same time, Swafford failed to diligently represent or communicate with Eugene, who retained Swafford as an attorney. In particular, Swafford allowed the other attorney to handle

Eugene's case, including appearing at conferences and hearings and reaching a plea agreement, and Swafford failed to appear at the sentencing hearing after representing to the district court that he would appear on Eugene's behalf.

Second, Swafford's IOLTA account was overdrawn by \$27 after two checks totaling \$50 were presented for payment. The state bar contacted Swafford on two occasions about the overdraft, but Swafford did not respond to the first letter, and represented that he would be providing a response to the second letter. However, Swafford failed to provide the state bar with any substantive response.

Our review of the disciplinary panel's findings and recommendations is de nova. We therefore 'must examine the record anew and exercise independent judgment,' but the disciplinary panel's recommendations nonetheless are persuasive. The state bar generally has the burden of showing by clear and convincing evidence that an attorney committed the violations charged, but where, as here, the attorney fails to respond to a complaint, 'the charges shall be deemed admitted.' The issue before this court therefore is the appropriate level of discipline. Swafford did not file an opening brief; therefore, this matter stands submitted for decision on the record.

In determining the appropriate discipline, this court has considered four factors to be weighed: 'the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating or mitigating factors.'

The purpose of attorney discipline is to protect the public, the courts and the legal profession, not to punish the attorney.

Absent mitigating factors, suspension generally is the appropriate discipline for knowingly failing to perform services for a client and engaging in a pattern of neglect that causes potential injury to a client.

Here, Swafford lacked diligence in representing Eugene by failing to counsel Eugene, failing to communicate with the district attorney on his behalf and failing to appear at hearings. Suspension is also warranted absent mitigating factors for Swafford's actions in improperly dealing with client property by overdrawing his IOLTA account, which potentially could cause injury to a client. See *id.* Standard 4.12.

Here, the panel found no mitigating factors, but found Swafford's failure to cooperate in the disciplinary matter and failure to respond to the state bar's inquiries about the IOLTA overdraft was an aggravating factor. Taking into consideration Swafford's actions, the panel determined that Swafford's mental state, the injury to the legal profession, and the potential injury to his client due to his misconduct warranted a suspension. However, the panel stated that it 'did not find that the recommended sanction ... should be increased because of the aggravating factor.' We agree with the hearing panel that suspension is the appropriate discipline to protect the public, the courts and the legal profession. But we conclude that the duration of the recommended suspensions is excessive considering the nature of the violations. Accordingly, we suspend attorney William Swafford from the practice of law for three months for the violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 3.3 (candor toward the tribunal), RPC 8.4(a) (misconduct: assisting another in violating an RPC), RPC 8.4(c) (misconduct: misrepresentation), and RPC 8.4(d) (misconduct: conduct prejudicial to the administration of justice) and a consecutive three month- and-one-day suspension based on the violation of RPC 1.15 (safekeeping of property). Swafford shall pay to the state bar \$500 for staff and counsel salaries plus the actual costs of the disciplinary proceedings and mailing expenses within 30 days of this order. The parties shall comply with the relevant provisions of SCR 121.1."

## Leslie Mark Stovall, Esq. SG 13-0902 Public Reprimand

### To Leslie Mark Stovall:

Marcelline I. Curran went to your office on December 3, 2012, to seek legal advice about her mother's estate. At the time she met with your non-lawyer assistant Jackie Jackson. At this meeting Jackson told Curran that your firm could create a revocable living trust on behalf of Curran's mother for \$1,250. Curran agreed to this representation, signed a retention agreement to this effect and paid the requested retainer.

Thereafter Curran did some research online and found information leading her to conclude, as a court-appointed guardian, she would need the approval of the guardianship court to set up a revocable trust, and since it would benefit the heirs more than her mother, it would likely be denied.

Curran contacted your office on December 13, 2012, and requested that they call her back with a timeline for preparing a petition for the court. When she had no response six weeks later, she called again and was advised by a staff member "Lisa C." that the firm "had not prepared any documents." Curran told Lisa at that point she wanted a refund and the firm was not to proceed with any further work.

Months passed with no contact and no refund. On April 13, 2013, Curran sent a detailed letter via certified mail to you iterating the foregoing and again demanding a refund which your office refused to provide.

Rule of Professional Conduct (RPC) 5.1 mandates that a "partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct."

Here, you acknowledge that you failed to properly supervise your Pahrump, Nevada office, and in that office you had non-lawyer staff providing legal advice as to what services Curran needed and that staff had Curran execute a retainer agreement.

It is incumbent upon a lawyer to ensure that his staff is properly trained as to what they ethically may or may not do, and in this instance your staff failed to meet those basic ethical obligations. In light of the foregoing, you are hereby PUBLICLY REPRIMANDED.

## Letter of Private Reprimand

"In April 2016, a screening panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. The panel concluded that you violated the Rules of Professional Conduct and that you should be reprimanded. However, the timing and nature of the conduct described below is identical to a Letter of Reprimand received by you in 2014. This letter shall constitute as an addendum of that reprimand.

Your client was injured in a vehicle accident in November 2009. She subsequently retained you to pursue litigation. You filed a lawsuit in 2011, in the Eighth Judicial District Court.

In or about August 2011, you accepted employment with a larger firm, and your client's file was transferred to the firm's office in or about October 2011.

Your original firm filed for bankruptcy in May 2012. Your client subsequently terminated the new firm's office and retained a new attorney to finish her case. Court records indicate that the substitution was made in May 2013.

The client later learned that on May 12, 2011, her insurance company had issued a check to herself and her attorneys for \$15,000, representing her underinsured motorist coverage. However, she never received the funds.

Her new attorney determined that the check had been deposited by you into your trust account at your old firm. The bankruptcy trustee confirmed that you had deposited \$15,000 into your trust account on behalf of the client. The records showed

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there was \$9,000 being held in your firm trust account for her, as you took \$6,000 in fees (40 percent). The firm records also showed that the client owed \$13,204.07 in costs.

The trustee also confirmed that it had been difficult distributing the funds that remained in trust at the time your firm filed for bankruptcy because the records were left in such a poor state. Another attorney stated that the bankruptcy trustee had tried to find documents to support the costs allegedly owed to the firm in the client's case, but had been unable to find any. As such, she believed the trustee would be sending over the \$9,000 that remained in trust on behalf of the client to her new attorney.

Although you received the UIM funds after you filed suit on behalf of the client against the at-fault party, no litigation was involved specifically in regard to the UIM funds. As such, it is questionable if your firm was entitled to 40 percent of the UIM funds. Additionally, even if a 40 percent fee was appropriate, you had no authorization from your client or anyone else to prematurely take your fees prior to disbursement.

On December 16, 2014, you accepted a two-count Letter of Reprimand for violations of RPC 1.4, RPC 1.5, and RPC 1.15, after clients complained that they had experienced difficulty communicating with you regarding their settlements after the bankruptcy. The state bar's investigations found that you had disbursed funds for attorney's fees improperly prior to filing for bankruptcy. The timing and circumstances of your client's situation are consistent with the other matters for which you were reprimanded.

Accordingly, please consider this an addendum to the Letter of Reprimand you received on December 16, 2014, and a reminder to you of your ethical obligations."

### Letter of Private Reprimand

"On March 4, 2016, a formal hearing panel of the Southern Nevada Disciplinary Board convened to consider the above-referenced grievance. After considering all of the evidence, the panel deliberated and unanimously concluded that you violated the Rules of Professional Conduct and should be issued the following Letter of Reprimand.

You were retained to represent your client in a non-contested divorce matter. After filing a Complaint for Divorce on December 18, 2013, the case was dismissed without prejudice on April 21, 2014. This occurred because you failed to file the proposed Decree of Divorce after it had been signed by both parties. Nor was the proof of service filed appropriately. And you made no effort to set aside the dismissal of the divorce complaint.

Your client was forced to retain separate counsel, at a greater expense, in order to complete her divorce.

These events occurred, in part, because of a medical emergency that had arisen in your family. Rule of Professional Conduct 1.3 (diligence) states that '[a] lawyer shall act with reasonable diligence and promptness in representing a client.' You failed to act with reasonable diligence and promptness when you did not timely file the proof of service and the signed divorce decree. In addition, after learning that your inaction had caused a dismissal, you should have attempted to correct your mistake. But you did not do so. This lack of diligence caused harm to your client, by delaying her (non-contested) case and costing her more money to hire another attorney.

As described above, this incident is a violation of Rule of Professional Conduct 1.3 (diligence). Accordingly, you are hereby REPRIMANDED for this violation. We trust that this reprimand will serve as a reminder to you of your ethical obligations, and that no such problems will arise in the future."

### Resignation, no discipline pending

Petitioner	Bar No.	Case No.
John Joseph Sheehan	1588	71285

## TIPS FROM THE OFFICE OF BAR COUNSEL

**Q: I'm ready to strike out on my own. I've been working very hard for my firm as an associate, but I don't feel like my talent and work are appreciated. I have a number of clients I believe would follow me and that I could represent them better than my current firm. What do I need to do?**

Are you actually prepared to do this? There's much more to consider than just your professional pride. There are, first and foremost, the best interests of your clients. Even if you're close to and doing a great job for your clients, you need to be sure you have their best interests in mind.

The question you need to ask is not, "can I do it?" The question instead is, "should I try?"

Do you have your own trust account set up, or is it in the firm's name? Is there someone who handles that at your firm and, if you go out on your own, do you need accounting professionals? Do you have billing software, conflict-check systems and other support services lined up? If the answers to these questions are no, you might want to just take a vacation and come back recharged.

If you're thinking of grabbing a bunch of files under cover of darkness on your way out... that's a mistake. First, they are not your clients. They have fee agreements with the firm. Second, it's the client's call, not yours. If the clients want to come with you, they will. But do it the right way and don't burn bridges.

If you feel there's no turning back, that's okay. Just be sure all of your ducks are in a row. Be up front and honest with your firm, and make an honest attempt to get your files the right way, by talking to your clients and your firm. You have just one reputation, and it's yours to lose.