

**In Re: LIBORIUS AGWARA**  
**Bar No.: 7576**  
**Case No.: 77121**  
**Filed: 10/21/2019**

## ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a modified conditional guilty plea agreement in exchange for a stated form of discipline for attorney Liborius I. Agwara. Under the agreement, Agwara admitted to violating RPC 1.4 (communication), RPC 1.8 (conflict of interest: current clients: specific rules), RPC 1.15 (safekeeping property), and RPC 8.4 (misconduct). He agreed to a three-year suspension with two years stayed, subject to certain conditions.<sup>1</sup>

Agwara admitted to the facts and violations as part of his guilty plea agreement. Thus, the record establishes that he violated the above listed rules by commingling client funds with personal funds, misusing his client trust account and failing to keep records, failing to timely communicate with clients and lienholders, failing to pay liens and funds owed to clients in a timely manner, loaning money to a client without advising him to consult with independent counsel, and failing to respond to the State Bar's request for records when investigating clients' grievances against Agwara.

The issue for this court is whether the agreed-upon discipline is sufficient to protect the public, the courts, and the legal profession. See *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (explaining the purpose of attorney discipline). In determining the appropriate discipline, we weigh four factors: "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." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Agwara intentionally violated duties owed to his clients (communication, conflict of interest, safekeeping property) and to the legal profession (misconduct). His clients and third parties suffered actual or potential injury as a result of not receiving their funds in a timely manner. Based on the most serious instance of misconduct at issue, Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards* 452 (Am. Bar Ass'n 2017) ("The ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations."), the baseline sanction before considering aggravating or mitigating factors is suspension. See *id.*, Standard 4.12 (providing that suspension is appropriate when the attorney "knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client"). The record supports the panel's finding of four aggravating circumstances (prior disciplinary offenses, dishonest and selfish motive, a pattern of misconduct, and multiple offenses), and one mitigating circumstance (interim rehabilitation). Considering all of the factors, we agree with

the panel that the agreed-upon discipline is appropriate and serves the purpose of attorney discipline.

Accordingly, we hereby suspend Agwara from the practice of law in Nevada for three years, with two years stayed, from the date of this order subject to the following conditions. As set forth in greater detail in the modified conditional guilty plea, Agwara shall provide the State Bar with a detailed accounting of the funds in his Nevada State Bank trust account and his Wells Fargo Bank trust account within seven days of the date of this order or he shall forfeit those funds to the State Bar of Nevada's Client Security Fund. If there is a dispute concerning the sufficiency of the accounting, it shall be submitted at Agwara's expense to an independent accounting firm. Agwara shall remit to the State Bar all documentation evidencing payment of each check issued from the \$410,000 settlement pertaining to his client J. Monterroso, and if he fails to do so, he shall disgorge those portions along with the \$4,180.24 currently in the Wells Fargo Bank trust account. Agwara shall not take any actions to default Monterroso in the interpleader action. Agwara shall remit to the State Bar all documentation evidencing payment of each check issued from the \$700,000 settlement pertaining to his client P. Payeras, and if he fails to do so, he shall disgorge those portions along with the remaining \$82,354 currently in the Wells Fargo Bank trust account and the \$50,000 bond with taxes for the interpleader. Agwara shall continue to cooperate with the State Bar in distributing the funds in the trust accounts. If he is reinstated, he shall be placed on probation for at least one year wherein a mentor shall monitor his practice and ensure that funds are being properly distributed from his trust accounts. Agwara shall also pay the costs of the disciplinary proceedings, including \$2,500 under SCR 120, within 7 days from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

**It is so ORDERED.**

**In Re: JASON L. LOPEZ**  
**Bar No.: 7796**  
**Case No.: 78511**  
**Filed: 10/11/2019**

## ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court revoke the stay on attorney Jason Lopez's suspension and impose the remainder of the two-year suspension based on his failure to comply with a condition of the stayed suspension.

On February 23, 2018, this court approved Lopez's conditional guilty plea agreement and suspended him for two years, with all but the first six months and one day stayed, for violating RPC 3.1 (meritorious claims and contentions), RPC 3.4 (fairness to opposing counsel), RPC 4.4 (respect for rights of third persons), and RPC 8.4(d) (misconduct — conduct prejudicial to the administration of justice). The stayed suspension was conditioned on Lopez's compliance with certain conditions, which included

the condition that he “not be found … to have abused the legal process.” *In re Discipline of Lopez*, Docket No. 73894 (Order Approving Conditional Guilty Plea Agreement, Feb. 23, 2018). After this court approved the conditional guilty plea, Lopez filed an amended complaint against the same parties and based on the same set of facts that Lopez agreed were frivolous in the conditional guilty plea agreement, and that had already been dismissed in other cases. Thus, substantial evidence supports the panel’s finding that Lopez violated the terms of his stayed suspension by abusing the legal process. Because the stay of the remainder of Lopez’s two-year suspension was subject to his compliance with certain conditions, we revoke the stay of the remaining portion of Lopez’s suspension, and suspend him for two years commencing from February 23, 2018, the date this court approved the conditional guilty plea agreement. Lopez shall also pay the costs of the disciplinary proceeding within 30 days from the date of this order, if he has not already done so. We decline the panel’s recommendation to impose any further conditions on Lopez at this time. The parties shall comply with SCR 115 and SCR 121.1.

**It is so ORDERED.**

**In Re: WILLIAM KNUDSON**  
**Bar No.: 5690**  
**Case No.: 79016**  
**Filed: 10/11/2019**

## ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel’s recommendation that attorney William Knudson be suspended for six months and one day based on violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 3.2 (expediting litigation), RPC 4.1 (truthfulness in statements to others), and RPC 8.4 (misconduct). Because no briefs have been filed, this matter stands submitted for decision based on the record. SCR 105(3)(b).

Knudson stipulated to the facts and violations alleged in the complaint at the hearing. The record therefore establishes that Knudson violated the above-listed rules by failing to participate in arbitration or an early case conference leading to the dismissal of a client’s case, sending the client a \$23,000 bill even though Knudson had taken the matter on a contingency basis, and then intercepting \$4,500 of the client’s funds from a third party and retaining those funds to apply to his bill without the client’s authorization resulting in the third party having to pay another \$4,500 to the client.

In determining whether the panel’s recommended discipline is appropriate, we weigh four factors: “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.” *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d

1067, 1077 (2008). We must ensure that the discipline is sufficient to protect the public, the courts, and the legal profession. See *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (noting the purpose of attorney discipline).

Knudson either negligently or knowingly violated duties owed to his client (competence, diligence, communication, and safekeeping property) and to the legal profession (expediting litigation, truthfulness in statements to others, and misconduct). Knudson’s client was injured because his action was dismissed and the third party was injured because it had to pay funds owed to the client twice. Based on the most serious instance of misconduct at issue, Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards* 452 (Am. Bar Ass’n 2017) (The ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations.), the baseline sanction before considering aggravating and mitigating circumstances is disbarment. See *id.* Standard 4.11 (Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.). The record supports the panel’s findings of one aggravating circumstance (multiple offenses) and four mitigating circumstances (absence of prior disciplinary record, personal or emotional problems, physical disability, and remorse). Considering all of the factors, including the mitigating factors of Knudson’s personal problems and physical disability, we agree with the panel that a downward deviation from the baseline sanction of disbarment is appropriate and that a six-month-and-one-day suspension serves the purpose of attorney discipline.

Accordingly, we hereby suspend attorney William Knudson from the practice of law in Nevada for six months and one day from the date of this order. Knudson shall pay \$4,500 in restitution to the law firm of Steven Adair & McDonald or demonstrate that he has been making consistent payments on a plan approved by Steven Adair & McDonald. Knudson shall also pay the costs of the disciplinary proceedings, including \$2,500 under SCR 120, within 30 days from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

**It is so ORDERED.<sup>2</sup>**

**In Re: MARK E. PEPLOWSKI**  
**Bar No.: 7133**  
**Case No.: 79476**  
**Filed: 10/09/2019**

## ORDER OF TRANSFER TO DISABILITY INACTIVE STATUS AND REFERRAL TO DISCIPLINARY BOARD

The State Bar and attorney Mark Peplowski have filed a joint petition alleging that Peplowski is suffering from a disability due to physical infirmity, illness, or addiction that makes it impossible for him to defend a

*continued on page 40*

*continued from page 39*

pending disciplinary proceeding or to continue the practice of law. The petition is governed by SCR 117(3) because Peplowski has not been judicially declared incompetent and no disciplinary board or hearing panel has weighed in on his competency. *Compare* SCR 117(3) (addressing transfer to disability inactive status before a determination of competency), *with* SCR 117(1) (addressing transfer to disability inactive status based on judicial declaration of incompetency), *and* SCR 117(2) (addressing transfer to disability inactive status based on a disciplinary board or hearing panel's petition).

SCR 117(3) provides that when an attorney files a petition before a determination of competency, this court "shall enter an order transferring the attorney to disability inactive status until a determination is made of the attorney's capacity to continue to practice law in a proceeding instituted in accordance with [SCR 117(2)]." In turn, SCR 117(2) provides that we "may take or direct such action as [we] deem[] necessary to determine whether the attorney is incapacitated, including referral of the matter to the appropriate disciplinary board for hearing and recommendation by a hearing panel or the examination of the attorney by qualified medical experts."

Accordingly, Peplowski is transferred to disability inactive status and the pending disciplinary proceeding against him is suspended pending further order of this court. We refer this matter to the Southern Nevada Disciplinary Board for bearing and recommendation by a hearing panel as provided in SCR 117(2). Bar counsel shall provide this court with a written status report on the proceedings under SCR 117(2) within 60 days from the date of this order.

As required by SCR 117(7), Peplowski shall comply with SCR 115, but if he is unable to do so, the State Bar shall proceed under SCR 118. The State Bar shall comply with SCR 121.1 and provide this court with proof that notice has been served.

**It is so ORDERED.<sup>3</sup>**

**In Re: KEITH D. CABLE**  
**Bar No.: 5598**  
**Case No.: OBC18-0400**  
**Dated: 09/16/2019**

## LETTER OF REPRIMAND

To Keith D. Cable:

On August 27, 2019, 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 ("RPC") and should be reprimanded. This letter shall constitute delivery of that reprimand.

On May 22, 2014, Diane Amsler ("Amsler") and Susan Katz ("Katz") retained Cable Gallagher to handle the wrongful death matter of Dr. Roger Foster. On January 29, 2015, Sterling Law, LLC and Cable Gallagher filed a Complaint, *Amsler v. Marquis Companies*, Case No. A-15-

713150-C (the "Amsler lawsuit"). While the primary contact for Amsler and Katz was Mark Gallagher ("Gallagher"), you and local counsel Beau Sterling signed the Complaint and were the attorneys of record. It appears that the case was settled for \$15,000, although Amsler and Katz never authorized a settlement.

On October 18, 2016, you signed a Stipulation and Order to Dismiss the Amsler matter. You indicated that you signed the Stipulation after Gallagher advised you the case settled. You also indicated you did not know the specifics of the settlement, but that you had no reason to doubt Gallagher's representation of settlement. You also indicated, however, that your signature on the settlement documents was forged. The case was subsequently dismissed and Amsler and Katz remain unpaid.

## Rules of Professional Conduct

RPC 1.15 (Safekeeping Property) requires a lawyer to hold funds or other property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. RPC 1.15(a) also requires an attorney to keep complete records of such account.

You and Gallagher were both signators on the firm's IOLTA Account. You advised the State bar that you and Gallagher each channeled your own client files, billings and accountings. You also advised that you and Gallagher did not reconcile the account. As partners and signatories on the IOLTA Account, you were both responsible for monitoring the IOLTA account. That you and Gallagher had separate clients does not absolve you from your duties to monitor and reconcile the trust account. Had you reconciled the account on a regular basis, and maintained complete records, as required by RPC 1.15, you may have discovered that client funds were missing from the account. Your failure to reconcile the account on a regular basis and after the firm dissolved, and to maintain complete records of the IOLTA Account violates RPC 1.15.

RPC 5.1 (c) (Responsibilities of Partners, Managers, and Supervisory Lawyers) provides:

- (c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:
  - (1) The lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or
  - (2) The lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

You breached RPC 5.1(c) by signing the Stipulation to Dismiss the Amsler lawsuit, when the firm did not have client authority to settle. While you indicated you did not know the specifics of the settlement, you nevertheless

should not have signed a settlement agreement without being sure you had settlement approval from the client, especially since the Settlement Agreement contains a purported forgery of your signature. It would have been more prudent to review the settlement documents before signing the Stipulation to dismiss.

Accordingly, you are hereby REPRIMANDED for violating RPC 1.15 and RPC 5.1(c). In addition, within 30 days of this Letter of Reprimand you are required to remit to the State Bar of Nevada the amount of \$1,500 pursuant to Supreme Court Rule 120(3).

**In Re: CYRUS SAFA**  
**Bar No.: 13241**  
**Case No.: OBC19-0259**  
**Dated: 09/10/2019**

## LETTER OF REPRIMAND

To Cyrus Safa:

A Screening Panel of the Southern Nevada Disciplinary Board (the "Panel") convened on September 10, 2019 to consider the above-referenced grievance against you. The Panel concluded that you violated the Rules of Professional Conduct ("RPC") and that you should be reprimanded. This letter constitutes delivery of that reprimand.

You work for the Law Offices of Lawrence D. Rohlfing, a California Law Firm. Your firm was hired to represent a client in the United States District Court District of Nevada. As a Nevada licensed attorney, licensed to practice in the U.S. District Court of Nevada you were counsel of record for the matter, and the attorney responsible for the case. You also had supervisory authority over other lawyers regarding the matter.

You filed the complaint. After filing the complaint, you failed to continue working on the case. You also failed to supervise other lawyers working on the case. You allowed a California attorney to do work on the matter and failed to supervise his activity. The California attorney communicated with opposing counsel about the matter including discussion regarding settlement, use of alternative dispute resolution, and consenting to a magistrate judge. You also allowed the California attorney to prepare filings and file them on your behalf without your review.

Nevada Rule of Professional Conduct 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers) requires that a lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct. Your failure to supervise another lawyers' efforts in this matter allowed the attorney to violate the Rules of Professional Conduct through the unauthorized practice of law in Nevada. Your conduct falls below the professional standard required of you.

Accordingly, you are hereby REPRIMANDED. In addition, within 30 days of this Letter of Reprimand you are to reimburse the State Bar of Nevada for investigation and

prosecution costs of \$1,500 pursuant to Supreme Court Rule 120(3).

**In Re: STEVEN G. ROSALES**  
**California Bar No.: 222224**  
**Case No.: OBC19-0252**  
**Dated: 09/10/2019**

## LETTER OF REPRIMAND

To Steven G. Rosales:

A Screening Panel of the Southern Nevada Disciplinary Board (the "Panel") convened on September 10, 2019 to consider the above-referenced grievance against you. The Panel concluded that you violated the Rules of Professional Conduct ("RPC") and that you should be reprimanded. This letter constitutes delivery of that reprimand.

You work for the Law Offices of Lawrence D. Rohlfing, a California Law Firm. Your firm was hired to represent a client in the United States District Court District of Nevada. You are not licensed to practice law in Nevada. You have not been admitted to the bar of the United States District Court District of Nevada.

You participated as counsel in this matter and eventually took over the case. You communicated with opposing counsel about the matter including discussion regarding settlement, use of alternative dispute resolution, and consenting to a magistrate judge. You also prepared filings and filed them with the Nevada court. You did not seek to be allowed to practice under any of the exceptions provided under the Nevada Rules of Professional Conduct.

Nevada Rule of Professional Conduct 5.5 (Unauthorized Practice of Law) prohibits a lawyer from practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction. You are not admitted to the bar of the United States District Court District of Nevada. Your conduct constitutes the practice of law in a jurisdiction in which you are not admitted and falls below the professional standard required of you.

Accordingly, you are hereby REPRIMANDED. In addition, within 30 days of this Letter of Reprimand you are to reimburse the State Bar of Nevada for investigation and prosecution costs of \$1,500 pursuant to Supreme Court Rule 120(3).

- 
1. Agwara has filed a brief disputing some of the facts to which he stipulated in the plea agreement and requesting this court impose discipline less than that agreed upon in the plea agreement. We decline to consider Agwara's arguments, as he knowingly and voluntarily entered into the conditional guilty plea, and SCR 113 precludes our modification of a guilty plea agreement.
  2. The Honorable Abbi Silver, Justice, voluntarily recused herself from participation in the decision of this matter.
  3. The Honorable Michael Douglas, Senior Justice, participated in the decision of this matter under a general order of assignment.

# TIPS FROM THE OFFICE OF BAR COUNSEL

## What NOT to do at the Holiday Party

*It's that time of the year again - holiday season. That means holiday parties and other fun events. What follows is a friendly reminder from the Office of Bar Counsel of what not to do at (or after) a holiday party:*

### Don't solicit clients.

RPC 7.3(a) prohibits direct contact with prospective clients. RPC 7.3(a) prohibits a lawyer from soliciting professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, by mail, in person or otherwise, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone, telegraph or facsimile, by letter or other writing, or by other communication directed to a specific recipient. This means you cannot solicit employment from a person you meet at a holiday party or other event unless you had a prior professional relationship with that person.

### Don't drive intoxicated.

There are numerous reasons not to drive intoxicated. One reason is lawyer discipline. The public expects lawyers to obey the law. Supreme Court Rule 111 requires lawyers to report a criminal conviction to the state bar for prosecution. The rule excludes misdemeanor traffic violations and first DUIs. If a lawyer does not self-report, then the state bar will find out. Rule 111 also requires court clerks to notify the state bar. There are so many other options, including Uber, Lyft and friends. Use one of these; the risk is not worth it.

### Don't have sex with your client.

RPC 1.8(j) provides: "A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced. This paragraph does not apply when the client is an organization." This means, if a consensual sexual relationship did not exist with the client before the representation began, don't use the holiday party as an excuse to start one.

**FOR LEASE**

OFFICE/  
MEDICAL OFFICE  
SPACE AVAILABLE

NORTHCAP COMMERCIAL

For more information:

JAMES S. HAN, CCIM      DEREK BELANUS

702 825 2125      702 286 2355

jamesh@northcap.com      derek@northcap.com

License: NV BS.0144720      License: NV BS.0143114.PC

*Congratulations to our newest associate,  
Kelsey Gunderson,  
graduate of the University of Arizona  
James E. Rogers College of Law*



Attorneys and Counselors at Law

Est. 1918

More than a century of Nevada law practice.

Sierra Plaza | 6100 Neil Road, Suite 500 | Reno, Nevada 89511-1159 | 775.688.3000