

## SUPREME COURT OF NEVADA

**In Re: EDMUND C. BOTHA**  
**Bar No. 3890**  
**Docket No. 68665**  
**Filed: December 2, 2015**

### ORDER OF DISBARMENT

*Attorney disbarred following federal conviction for tax evasion, misappropriation of client funds and unauthorized practice of law while temporarily suspended.*

The Southern Nevada Disciplinary Board hearing panel recommended that Edmund Botha be irrevocably disbarred after finding he violated a number of rules while already suspended, including violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property), RPC 1.16 (declining or terminating representation), RPC 5.5 (unauthorized practice of law), RPC 8.4(a) (misconduct), RPC 8.4(b) (misconduct—committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(c) (misconduct—engaging in conduct involving dishonesty, fraud, deceit or misrepresentation). The violations relate to Botha’s federal conviction for felony tax evasion and his conduct following his temporary suspension from the practice of law but prior to his surrendering to begin serving the sentence imposed for his federal conviction.

The Nevada Supreme Court deemed the violations admitted following a de novo review, as Botha failed to respond to the complaint.

The court approved the recommendation, disbaring Botha, citing his “demonstrated indifference to the court’s temporary suspension order,” as well as a number of other aggravating factors. The Southern Nevada Disciplinary Board and the court found a single mitigating factor: no prior disciplinary record. However, that mitigating factor did not warrant discipline less than disbarment.

Botha’s disbarment is irrevocable. Additionally, he is

required to pay the costs of the disciplinary proceedings, including bar counsel and staff salaries, within 30 days from December 2, 2015.

For more information about this order, visit: [www.nvbar.org/sites/default/files/Pages%20from%2012-7-15%20Notice%20to%20Courts%20-%20Botha.pdf](http://www.nvbar.org/sites/default/files/Pages%20from%2012-7-15%20Notice%20to%20Courts%20-%20Botha.pdf)

**In Re: HAROLD KUEHN**  
**Bar No. 284**  
**Docket Nos. 63410, 66648**  
**Filed: December 2, 2015**

### ORDER OF DISBARMENT

*Attorney ordered disbarred following failure to defend client in Federal Court, failure to communicate and failure to cooperate.*

The Southern Nevada Disciplinary Board hearing panel recommended Kuehn be suspended for a period of five years in one case and disbarred in another. Kuehn failed to represent his client in a wrongful death case, resulting in a \$2.7 million judgement against his client. He failed to meaningfully participate in a federal malpractice case in which he was the defendant, resulting in sanctions by the U.S. District Court. He also failed to communicate with clients in such a way that the failure interfered with his professional representation of those clients, and he failed to cooperate with the state bar with respect to one of its proceedings. The hearing panel found Kuehn violated the following rules in the two cases: RPC 1.1 (competence), RPC 1.2 (scope of representation and allocation of authority between client and lawyer), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.16 (declining or terminating representation), RPC 3.4 (fairness to opposing party and counsel), RPC 8.1 (bar admission and disciplinary matters) and RPC 8.4 (misconduct). Kuehn conceded all violations in one case and did not respond to the charges in the other.

The Nevada Supreme Court concluded that the panel’s findings were appropriate given “clear and convincing” evidence to support them. The punishment was also upheld given the number of aggravating factors involved, including prior disciplinary history,

pattern of misconduct, dishonest or selfish motives, multiple disciplinary offenses, refusal to acknowledge the wrongful nature of his conduct, vulnerability of victims, substantial experience in the practice of law and indifference to making restitution.

Harold Kuehn is hereby irrevocably disbarred and shall pay the costs of the disciplinary proceedings within 30 days from December 2, 2015.

**In Re: RAMON L. DY-RAGOS**  
**Bar No. 10343**  
**Docket No: 68670**  
**Filed: December 2, 2015**

### ORDER OF SUSPENSION

*Attorney suspended for seven months following multiple violations, including failure to supervise a paralegal engaged in the unauthorized practice of law and failing to respond to the state bar’s inquiries pertaining to the charges against him.*

The Southern Nevada Disciplinary Board hearing panel recommended Ramon Dy-Ragos be suspended based on a number of violations related to failing to supervise a subordinate and failing to respond to a grievance.

The Nevada Supreme Court deemed the violations admitted upon de novo review due to a failure to file an opening brief.

The hearing panel recommended that Dy-Ragos:

1. Be suspended from the practice of law for seven months;
2. Be required to retake and pass the Multistate Professional Responsibility Examination (MPRE);
3. Be subject to the same terms and conditions on reinstatement as set forth in the prior disciplinary order entered by this court on April 4, 2014; and
4. Pay the costs of this disciplinary proceeding (excluding bar counsel and staff salaries).

The court found the period of suspension to be appropriate considering the duties violated, the injury to the client, the fact

that a formal complaint had been filed against Dy-Ragos alleging violations of RPC 5.3 (responsibilities regarding nonlawyer assistants) prior to the conduct at issue in this complaint and the aggravating circumstances (bad faith obstruction of the disciplinary proceeding, refusal to acknowledge the wrongful nature of the conduct and indifference to making restitution).

Ramon L. Dy-Ragos is suspended for seven months beginning on December 2, 2015. The conditions previously imposed on his reinstatement in Docket No. 63884 remain in effect, with the added condition that Dy-Ragos take and pass the MPRE. Dy-Ragos shall also pay the costs of the disciplinary proceeding (excluding bar counsel and staff salaries) within 30 days from receipt of the state bar's bill of fees and costs.

For more information about this order, visit: <https://www.nvbar.org/sites/default/files/Pages%20from%2012-7-15%20Notice%20to%20Courts%20-%20Dy-Ragos.pdf>

**In Re: William Michael O'Mara**  
Bar No. 837  
Docket No. 67908  
Filed: November 10, 2015

## ORDER OF SUSPENSION

*Attorney suspended for one year following multiple violations of professional rules in the drafting of a will for a dishonest or selfish motive.*

The Southern Nevada Disciplinary Board hearing panel recommended William O'Mara be suspended for six months following multiple conduct violations regarding the representation of a client in the drafting of a will. O'Mara's wife had been gifted a bequest in the will under her maiden name. In subsequent proceedings, O'Mara denied the woman named was his wife.

The hearing panel found "clear and convincing" evidence that O'Mara violated RPC 1.8(c) (conflict of interest: current clients: specific rules); RPC.3.3 (candor towards the tribunal), RPC 4.1 (truthfulness in statements to others), RPC 8.1(a) (bar admission and disciplinary matters) and RPC 8.4 (misconduct).

The panel found the following aggravating factors:

1. Dishonest or selfish motive;
2. Submission of false evidence, false statements or other deceptive practices during the disciplinary hearing;
3. Refusal to acknowledge the wrongful nature of the conduct; and
4. Substantial experience in the practice of law.

The hearing panel found that O'Mara's lack of prior disciplinary history and character and reputation were mitigating factors. Further, the hearing panel recommended that O'Mara be suspended from the practice of law for six months and pay the costs of the disciplinary proceeding.

The Nevada Supreme Court reviewed the case and agreed with the findings of the panel regarding the misconduct, but disagreed with the panel as to the punishment. The court suspended O'Mara from the practice of law for one year. O'Mara is also required to pay the costs associated with the disciplinary proceedings within 30 days of his receipt of the state bar's bill of costs.

**Justice Saitta concurred in part and dissented in part:**

*I write separately to express my deep concern about the conduct in this case. Although I support the majority in its rejection of the recommended discipline, I do not believe that one year is an adequate period of suspension for such troubling behavior.*

*I first note that the reputation and character, as well as the lack of prior disciplinary proceedings, are significant considerations and, in fact, are properly noted as mitigating evidence in this matter. I do not take issue with this evidence. A longtime, well-respected member of the bar is entitled to such deference.*

*However, this case presents not only a dishonest and self-serving motive in the first instance where Mr. O'Mara drafted a will in which personal financial gain seems to be*

*the intent, but that act is then compounded by repeated false and misleading representations in court proceedings, a deposition, and a formal hearing occasioned by such misrepresentations. Finally, in a letter to the state bar, Mr. O'Mara continued to deny the true facts and the identity of the beneficiary.*

*The ABA Standards for Imposing Lawyer Sanctions, Compendium of Professional Responsibility Rules and Standards, Standards 5.11 and 5.12 (2015 5th ed.), discusses the types of conduct that warrant serious discipline. These include intentional interference with the administration of justice, false swearing, misrepresentation or fraud. Each of these factors is present in this matter.*

*I struggle to write separately and to point out the evidence discussed above, yet it is the factual foundation upon which this discipline proceeding rests. There is no dispute that this evidence was supported by clear and convincing evidence in the state bar proceeding. Therefore, I cannot support a one-year suspension in light of such conduct.*

**Chief Justice Hardesty and Justice Gibbons dissented:**

*Taking into consideration the mitigating factors, we agree with the disciplinary panel that a six-month suspension is sufficient. We therefore dissent.*

**The Honorable Stefany Ann Miley, Judge of the Eighth Judicial District Court, was designated by the governor to sit in place of the Honorable Michael Cherry, Justice, who voluntarily recused himself from participation in the decision of this matter.**

For more information about this order, visit: <https://www.nvbar.org/sites/default/files/Pages%20from%2012-7-15%20Notice%20to%20Courts%20-%20William%20O%27Mara.pdf>

continued on page 38 »

« continued from page 37

**In Re: EASTON K. HARRIS**  
**Bar No. 10611**  
**Docket No. 69104**  
**Filed: December 2, 2015**

### ORDER IMPOSING TEMPORARY SUSPENSION

*Attorney ordered suspended pending resolution of formal proceedings due to allegedly misappropriating client funds. Attorney prohibited from making withdrawals from any account related to law practice.*

The Southern Nevada Disciplinary Board hearing panel recommended attorney Easton Harris be temporarily suspended, pending resolution of a formal disciplinary hearing. Evidence indicated Harris had misappropriated client funds. Following the review of the supporting documentation, the Nevada Supreme Court temporarily suspended Harris, pending the resolution of the case. Harris is precluded from accepting new cases and from continuing to represent existing clients immediately upon service of this order. The court imposed the following conditions:

1. All proceeds from Harris' practice of law and all fees and other funds received from, or on behalf of, his clients shall, from the date of service of this order, be deposited into a trust account from which no withdrawals may be made by Harris except upon written approval of Bar Counsel; and
2. Harris is prohibited from withdrawing any funds from any and all accounts in any way relating to his law practice, including but not limited to his general and trust accounts, except upon written approval of Bar Counsel.

For more information about this order, visit: <https://www.nvbar.org/sites/default/files/Pages%20from%2012-7-15%20Notice%20to%20Courts%20-%20Easton%20Harris%20%282%29.pdf>

**In Re: BEAU STERLING**  
**Bar No. 6883**  
**Docket No. 68944**  
**Filed: November 6, 2015**

### ORDER OF REFERRAL TO SOUTHERN NEVADA DISCIPLINARY BOARD AND IMPOSING TEMPORARY SUSPENSION

*Attorney temporarily suspended pending hearing of petition to move to disability inactive status.*

The State Bar of Nevada and attorney Beau Sterling petitioned the Nevada Supreme Court for transfer to disability inactive status. A treating psychologist's evaluation indicated Sterling suffered from a mental infirmity that made him unable to practice or defend himself against disciplinary charges.

The Nevada Supreme Court concluded that further proceedings are necessary to determine if Sterling is incompetent or incapacitated within the meaning of SCR 117, and referred the matter to the Southern Nevada Disciplinary Board for hearing and recommendation by a hearing panel. Bar Counsel shall provide the court a written status report within 60 days of November 6, 2015. The court also suspended disciplinary proceedings until further order. If adequate proof is not developed demonstrating that Sterling suffers from a disability that "makes it impossible for the attorney to adequately defend" any disciplinary proceedings, SCR 117(3), the Southern Nevada Disciplinary Board should, if supportable, proceed by way of petition to this court under SCR 102(4), within the same 60 day time period.

Based on the information in the petition and supporting documents, the pending disciplinary proceedings, and Sterling's derelict representation in multiple cases pending before the Nevada Supreme Court, the court found Sterling to pose a "substantial threat of serious harm to the public." The court therefore suspended Sterling from practice pending the resolution of the hearing. He is precluded from taking new cases, but may continue representing existing clients for 15 days from service of the order.

# TIPS FROM THE OFFICE OF BAR COUNSEL

## SCENARIO:

**Due to space constraints in the office, we're looking at reducing the number of hard copy files we keep. We're even taking files and storing them at home. What files do we need to keep, and may we store them digitally?**

The rules are fairly clear on this point. It can be frustrating to be running low on space, both in the office and at home, but again, the rule is clear.

## Rule of Professional Conduct 1.15 (a) addresses this issue directly:

All files, including records of financial transactions with the client, must be kept for at least seven years following termination of representation. They must also be clearly identifiable as the client's.

After that point, only certain documents, specifically those in which an original is of intrinsic legal value, such as a will or an affidavit, need to be kept.

There is no current rule allowing (or forbidding) the electronic retention of these files. However, there are issues regarding the safety and confidentiality of those files that have yet to be settled.

While seemingly innocuous, keeping records secure is an important safeguard, for both the client and the attorney. Your reasonable concerns about office space do not change your obligations to safeguard client files. **NL**