

THOMAS D. BOLEY
Bar No.: 11061
Grievance File No.: OBC18-1231
Dated: 02/15/2019

PUBLIC REPRIMAND

To Thomas D. Boley:

You represented Jose Monay-Pina (“Monay-Pina”) in a criminal matter in the Eighth Judicial District Court. In March 2017, a jury convicted Monay-Pina on multiple felony charges. In September 2017, a Judgment of Conviction was filed and Monay-Pina was sentenced to multiple prison terms.

You agreed to represent Monay-Pina *pro bono* in his appeal. Your Notice of Appeal was signed on October 3, 2017, and filed with the Nevada Supreme Court (“Supreme Court”) on October 12, 2017. Accordingly, pursuant to Nevada Rule of Appellate Procedure (“NRAP”) 9(a)(3)(A) and NRAP 14(b), you was [sic] required to file the transcript request form and docketing statement by October 30, 2017, and November 1, 2017, respectively.

On November 16, 2017, because you had not filed the transcript request form and docketing statement, the clerk of the Supreme Court issued a notice which directed you to file and serve those documents by December 4, 2017.

On December 21, 2017, because you still had failed to file the documents, the Supreme Court entered an Order to File Documents which directed you to file and serve the documents within eleven (11) days. The Order cautioned you that failure to comply could result in the imposition of sanctions.

On January 26, 2018, because you still had neither filed the transcript request form nor docketing statement, the Supreme Court filed an Order Conditionally Imposing Sanctions which directed you to, within eleven (11) days, pay \$250 to the Supreme Court Law Library and provide proof of payment to Supreme Court.

The Order stated, however, that the sanction would be automatically vacated if you filed and served the transcript request form and docketing statement, or a properly supported motion to extend time, within the same time period. The Order – which also reminded you that the appeal’s opening brief and appendix were due on February 9, 2018 – cautioned you that continued failure to timely file the required documents would result in your removal as counsel-of-record in Monay-Pina’s appeal and his referral to the State Bar for investigation pursuant to SCR 104 (State bar counsel) and SCR 105 (Procedure on receipt of complaint).

You filed the transcript request form and docketing statement on February 6, 2018. Therefore, the previously imposed conditional sanctions were automatically vacated. On February 22, 2018, you filed a motion for an extension of ninety (90) days to file the opening brief.

In an Order filed on March 1, 2018, the Supreme Court denied your request for an extension of time, and directed him to file and the opening brief and appendix within thirty (30) days. The Order again warned you that failure to comply could result in imposition of sanctions.

In an Order filed on April 30, 2018, the Supreme Court noted that you still had not filed the opening brief and appendix. Therefore, the Supreme Court removed you as counsel-of-record for the appeal and remanded the case back to the Eighth

Judicial District Court for appointment of another attorney to represent Monay-Pina. You were referred to the State Bar for investigation pursuant to SCR 104 and SCR 105.

In light of the foregoing, you violated Rule of Professional Conduct 1.3 (Diligence) and RPC 3.4(c) (Fairness to Opposing Party and Counsel), and are hereby **PUBLICLY REPRIMANDED**.

SUNEEL J. NELSON
Bar No.: 12052
Grievance File No.: OBC18-0933
Dated: 02/21/2019

LETTER OF REPRIMAND

To Suneel J. Johnson:

On April 16, 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 and should be reprimanded. This letter shall constitute delivery of that reprimand.

On or about April 19, 2018, your bar license was suspended for non-compliance with Continuing Legal Education (“CLE”) requirements. You indicated you were unaware of the suspension until April 26, 2018, when another attorney informed you that the State Bar’s website listed you as CLE suspended. However, this was the second consecutive year you were suspended for failure to timely complete CLE requirements.

Shortly before the suspension, on April 11, 2018, you conferred with a client regarding potential representation in a legal action. On April 23, 2018, four days after the suspension went into effect, you met with the client to go over her documentation and discuss her case. The following day, you emailed a retainer agreement to the client, which she signed and returned via email on April 25, 2018. On April 28, 2018, the client paid you \$4,500 via PayPal. Of the \$4,500, \$1,000 was designated as earned upon receipt.

The CLE Board reinstated you to active status on May 1, 2018 after you completed your credits, paid the annual CLE fee, and paid your annual bar dues.

Nevada Rule of Professional Conduct 5.5 (Unauthorized Practice of Law) prohibits a lawyer practicing in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction. Supreme Court Rule 212 states that an attorney suspended for failure to comply with CLE requirements in [sic] not entitled to engage in the practice of law until reinstated. By meeting with a client, discussing case strategy, executing a retainer agreement and collecting a fee, you violated these rules.

Normally, pursuant to American Bar Association Standard 7.2, this violation would warrant a suspension. However, you have no prior disciplinary record, had no dishonest or selfish motive and made timely good-faith effort to rectify the consequences of your misconduct.

Accordingly, you are hereby **REPRIMANDED** for having violated RPC 5.5 (Unauthorized Practice of Law). 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.

RESIGNATIONS
(VOLUNTARY, NO DISCIPLINE PENDING)

S.C.R. 98(5)(a) states:

Any member of the state bar who is not actively engaged in the practice of law in this state, upon written application on a form approved by the state bar, may resign from membership in the state bar if the member: (1) has no discipline, fee dispute arbitration, or clients' security fund matters pending and (2) is current on all membership fee payments and other financial commitments relating to the member's practice of law in Nevada. Such resignation shall become effective when filed with the state bar, accepted by the Board of Governors, and approved by the Supreme Court.

The following members resigned pursuant to this Rule:

NAME	BAR NO.	ORDER NO.	FILED
Nicholas D. Drader	9380	78648	04/19/2019
John J. Graves, Jr.	1698	78649	04/19/2019
Fernando Guzman	1273	78650	04/30/2019
Matthew G. Huntley	2879	78652	04/30/2019
Ronald R. Madson	1158	78653	04/30/2019
Colleen J. Rice-Saande	5752	78654	04/30/2019
Nannette Souhrada	7524	78655	04/30/2019
Dana Stagg Belknap	5136	78656	04/30/2019
S. Fred Wheeler	10795	10795	04/30/2019
Gary A. Wood	2196	78658	04/30/2019
Richard C. Sipan	3155	78679	05/07/2019

TIPS FROM THE OFFICE OF BAR COUNSEL

FAILURE TO COMPLY WITH RPC 1.8 CAN BE COSTLY

Has a client ever offered you a business deal too good to pass up? Stock in the next tech unicorn? Real property at fire-sale prices? Interest in a million-dollar patent? Ownership in a beach house overlooking the ocean?

If so, be careful. Golden opportunities with clients often spell trouble. Before you enter into a business transaction with your client, become familiar with Nevada Rule of Professional Conduct (RPC) 1.8. These business opportunities create an inherent conflict of interest. Amazing deals can turn a lawyer's focus to the bottom line rather than their clients' best interests. To protect clients, RPC 1.8(a) prohibits a lawyer from entering into a business transaction with a client, knowingly acquiring an ownership or other interest adverse to the client, or providing financial assistance to a client in connection with pending or contemplated litigation unless certain conditions are met.

Before a lawyer can do business with a client, the lawyer must:

1. Ensure the terms of the deal are fair and reasonable, and fully disclosed in a writing the client can understand;

2. Advise the client to seek independent legal advice and give the client a chance to do so; and
3. Obtain informed consent in a writing signed by the client both to the essential terms of the transaction and the lawyer's role in the transaction. RPC 1.8(a).

The Nevada Supreme Court has noted a "strong presumption of impropriety" concerning business transactions with clients, and mere technical compliance with RPC 1.8 is not enough to overcome this presumption. *In re Discipline of Singer*, 109 Nev. 1117, 865 P.2d 315 (1993).

Failure to comply can be expensive. In one California case, a corporate client rewarded a lawyer with 3 percent of its stock after the lawyer secured badly needed financing for the corporation. The stock took off to more than \$32 million. When the lawyer tried to cash in, the board balked. In later litigation, the court held that the lawyer had failed to advise the company to seek independent legal advice before accepting the gift of stock. The court rescinded the deal and the lawyer lost all \$32 million. *Passante v. McWilliams*, 62 Cal. Rptr. 2d 298 (Cal. App. 1997).