

SUPREME COURT OF NEVADA

In Re: BRIAN JONES
Bar No. 9597
Docket No. 68671
Filed: December 28, 2015

ORDER OF DISBARMENT

Attorney disbarred following felony conviction related to a conspiracy that gave the boards of directors of two homeowner's associations the ability to alter election results. This is considered serious criminal conduct.

A Southern Nevada Disciplinary Board hearing panel recommended Brian Jones be suspended from practice for five years following a number of violations, largely related to his felony conviction for conspiracy to commit wire and mail fraud. Jones, in his role as special election master for two boards of directors at two homeowner's associations, allowed coconspirators to access ballots, enabling them to learn the election results and then substitute ballots in order to change those results, constituting violations of RPC 1.1 (competence), RPC 1.6 (confidentiality of information), RPC 1.7 (conflict of interest: current clients), RPC 1.13 (organization as client), RPC 1.15 (safekeeping property), RPC 4.1 (truthfulness in statements to others), RPC 4.3 (dealing with unrepresented persons), RPC 7.1 (communications concerning lawyer's services), RPC 8.1 (bar admission and disciplinary matters) and RPC 8.4(b) (misconduct – criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer). The hearing panel also recommended that Jones pay the costs of the disciplinary proceedings and successfully complete the Multistate Professional Responsibility Exam (MPRE) as a condition of reinstatement.

The Nevada Supreme Court considered the mitigating factors cited by the hearing panel, including Jones' lack of experience, his cooperation, his remorse and his

testimony that his actions were reckless as opposed to negligent, to be compelling. However, the court was convinced that, based on the duties violated and the actual injury caused by Jones' misconduct, disbarment was necessary to protect the public, the courts and the legal profession. Disbarment is irrevocable, and Jones is obligated to pay the cost of the disciplinary hearing.

Justices Parraguirre, Cherry and Gibbons dissented:

"After considering the ABA Standards, the mitigating circumstances, the level of Jones' involvement, and his recklessness or negligence rather than intent, the hearing panel recommended a five-year suspension and conditions on reinstatement. In this case, we are persuaded by the hearing panel's evaluation of the mitigating circumstances and its unanimous recommendation. See *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001) (observing that although review is de novo, a hearing panel's recommendation is persuasive). The lengthy suspension along with the requirements for Jones to be reinstated following the suspension, which mandate that he demonstrate the "moral qualifications, competency, and learning in law required for admission to practice law in this state," SCR 116(2), and that he successfully complete the examination for admission to practice, SCR 116(5), are more than sufficient to protect the public and the integrity of the profession. We therefore dissent."

For more information about this order, visit: <http://www.nvbar.org/civicrm/file?reset=1&id=370&eid=11373>

In Re: TIMOTHY TITOLO
Bar No. 3617
Docket No. 68686
Filed: December 23, 2015

ORDER OF SUSPENSION

Attorney suspended for six months following a number of violations,

including failure to safeguard property and abdication of fiscal responsibility.

A Southern Nevada Disciplinary Board hearing panel recommended that Timothy Titolo be suspended three months for violations related to his safeguarding of his clients' property. Titolo had turned over management of client funds to his wife. The hearing panel recommended Titolo's trust account for the last five years be audited within the next two years, and that Titolo complete 30 CLE hours in law office management and pay the cost of his disciplinary proceedings. Titolo's discipline involved violations of RPC 1.15 (safekeeping property), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 8.1(b) (bar admission and disciplinary matters) and RPC 8.4 (misconduct).

The court deferred to the hearing panel's findings of fact in this matter and, based on those findings, the court agreed with the panel's conclusions that Titolo violated RPC 1.15 (safekeeping property) and RPC 8.4 (misconduct). In reviewing the case, the court stated that it was concerned about Titolo's attitude toward his responsibilities to safeguard client property, as well as his prior disciplinary history. The court ordered a six-month suspension and approved the stipulations regarding an audit of his trust account, completion of CLE coursework and paying the cost of the disciplinary hearing.

Justice Saitta dissented:

"I agree that the hearing panel's recommendation of a three-month suspension is not sufficient, but I dissent because in my opinion the six-month suspension imposed by the court also is not adequate to protect the public and the integrity of the profession. In my view, a one-year suspension would be appropriate in this case."

For more information about this order, visit: <http://www.nvbar.org/civicrm/file?reset=1&id=364&eid=5110>

In Re: BRENT BLANCHARD
Bar No. 7605
Docket No. 68889
Filed: December 23, 2015

**ORDER APPROVING
 CONDITIONAL GUILTY PLEA
 AGREEMENT**

Attorney suspended for three years after committing misconduct in the transfer of funds from a client's family trust, and failing to keep up with CLE requirements.

A Southern Nevada Disciplinary Board hearing panel recommended approving a conditional guilty plea for a three-year suspension for attorney Brant Blanchard, following admission of multiple violations, specifically related to his continuing in the practice of law despite being suspended for failing to complete CLE requirements and for misappropriation of funds from a family trust into a limited liability company owned by Blanchard. Blanchard admitted to violations of RPC 1.4(a)(5) (communication), RPC 1.8(a) (conflict of interest: current clients), RPC 1.15 (safekeeping property), RPC 1.16 (declining or terminating representation), RPC 3.3 (candor toward the tribunal), RPC 3.4 (fairness to opposing party and counsel), RPC 5.5 (unauthorized practice of law) and RPC 8.1(b) (bar admission and disciplinary matters).

The court approved the agreement, which requires Blanchard to:

1. Comply with any and all outstanding CLE requirements and pay any outstanding fees owed;
2. Attend and complete an additional 15 hours of CLE in ethics;
3. Retake and pass the Multistate Professional Responsibility Exam;
4. Report this matter to the Utah State Bar;
5. Immediately execute a quitclaim deed for the property in question, on behalf of the Family Trust, and comply with any and all efforts of the trust beneficiary or her designee to return the property to the Family Trust;

6. Comply with Judge Joanna S. Kishner's order that he pay \$6,237 in fees and \$158.61 in costs incurred in case number A-14-702869-C in the Eighth Judicial District Court;
7. Continue treatment for depression and provide satisfactory proof from the Nevada Lawyer Assistance Program that he is mentally capable of resuming the practice of law; and
8. Pay the costs of the disciplinary proceedings (excluding bar counsel and staff salaries).

Justices Douglas and Saitta dissented:

"We would reject the conditional guilty plea agreement because the agreed-upon discipline is not sufficient. In our view, a four-year suspension would be more appropriate considering the relevant factors."

For more information about this order, visit: <http://www.nvbar.org/civicrm/file?reset=1&id=365&eid=9252>

In Re: ANDREW D. TAYLOR
Bar No. 8688
Docket No. 69019
Filed December 23, 2015

**ORDER APPROVING
 CONDITIONAL GUILTY
 PLEA AGREEMENT**

The Southern Nevada Disciplinary Board hearing panel recommended an 18-month stayed suspension, with a 120-day actual suspension for a number of violations, including RPC 1.5 (fees), RPC 1.7 (conflict of interest, current client), RPC 1.15 (safekeeping property), RPC 4.1 (truthfulness in statements to others), RPC 5.3 (responsibilities regarding nonlawyer assistants), RPC 5.4 (professional independence of a lawyer), RPC 5.5 (unauthorized practice of law), RPC 7.2(k) (advertising), RPC 7.3 (communication with prospective clients), RPC 8.1(b) (bar admission and disciplinary matters) and RPC 8.4 (misconduct). The conditional guilty plea also included a two-year

probationary period with the following conditions that Taylor:

1. Stay out of trouble and not receive any grievances resulting in actual discipline;
2. Obtain a mentor who practices in the area of personal injury to monitor his active cases and ensure that:
 - a. His cases are properly filed and calendared, and his clients are advised, and
 - b. He has a proper accounting system in place and to review his trust account and provide quarterly reports to bar counsel;
3. Complete paying restitution (\$782.77 to his client);
4. Submit a quarterly report to Bar Counsel updating his place of employment, areas of practice, caseload, restitution payments and any issues that may have developed;
5. Take and pass the Multistate Professional Responsibility Exam (MPRE) within one year after the plea is approved; and
6. Pay the actual costs of the disciplinary proceedings, excluding Bar Counsel and staff salaries.

Taylor was disciplined for various offenses related to delegating management and control of the law practice to a nonlawyer, permitting the unauthorized practice of law by a nonlawyer assistant and failing to safeguard client property. Taylor contracted with an outside management company to control "all non-professional" aspects of the law practice, including marketing services. That manager was also given exclusive control over the firm trust and operating bank accounts. The manager was indicted and convicted of conspiring with a hospital trauma department employee to obtain patient face sheets used to solicit patients on behalf Taylor. The manager also embezzled client funds impacting at least 32 clients.

The court considered the duties violated, Taylor's mental

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state, the injury caused by Taylor's misconduct, the aggravating factors (dishonest or selfish motive, a pattern of misconduct, multiple offenses, vulnerability of the victim and substantial experience in the law), and mitigating factors (absence of prior disciplinary record, timely good faith effort to make restitution or rectify consequences, full and free disclosure to disciplinary authority or cooperative attitude, delay in disciplinary proceedings in relation to the misconduct and remorse), and determined the agreed-upon discipline recommended by the hearing panel was sufficient to serve the purpose of attorney discipline. The court therefore approved the conditional guilty plea for an 18-month stayed suspension, a 120-day actual suspension, and a two-year probationary period commencing December 23, 2015.

Justices Douglas, Saitta and Pickering dissented:

"We would reject the conditional guilty plea agreement because the agreed-upon discipline is not sufficient. In our view, an actual suspension of at least six months is appropriate considering the relevant factors."

For more information about this order, visit:
<http://www.nvbar.org/civicrm/file?reset=1&id=366&eid=10421>

In Re: PETER M. RINATO
Bar No. 8636
Docket No. 69092
Filed: December 23, 2015

**ORDER APPROVING
 CONDITIONAL GUILTY PLEA
 AGREEMENT**

Attorney suspended six months and one day following a guilty plea. The attorney was already suspended for additional wrongdoing.

A Southern Nevada Disciplinary Board hearing panel recommended approving a conditional guilty plea for a six-month-and-one-day suspension for Peter Rinato, following his admission of misconduct related to using his client trust account as a pass-through of personal funds from

a private investment venture, to be served concurrently with a second six-month suspension Rinato is serving for an unrelated matter. The agreement calls for Rinato, upon reinstatement to the practice of law, to serve a probationary period of two years, to comply with all bar requests for information, to avoid activity that would result in public discipline (including a letter of reprimand), to obtain a mentor approved by the bar for purposes of accounting and practice management and meeting with that mentor twice monthly, to provide quarterly reports to the bar on the state of his trust accounts, and to avoid being convicted of any crime, with the exception of minor traffic infractions that do not involve alcohol or controlled substances. The agreement also requires Rinato to pay the costs of the disciplinary proceeding, excluding bar counsel and staff salaries, within 90 days of receiving a bill from the state bar.

The court approved the conditional guilty plea agreement.

Justices Douglas and Saitta dissented:

"We would reject the conditional guilty plea agreement because the agreed-upon discipline is not sufficient."

For more information about this order, visit: <http://www.nvbar.org/civicrm/file?reset=1&id=367&eid=10366>

In Re: GARY SEGAL
Bar No. 3220
Docket No. 67663
Filed: December 23, 2015

ORDER OF REINSTATEMENT

Attorney reinstated, with conditions, following six-month-and-one-day suspension.

A Southern Nevada Disciplinary Board hearing panel approved the reinstatement of attorney Gary Segal from a six-month-and-one-day suspension, imposed by the court on March 25, 2005. The court, in a separate order, required Segal to pass the Nevada Bar Examination within the two years preceding his reinstatement petition and to file

proof that he did not have any clients that were residents of California as of August 27, 2008. The court also provided that if Segal were granted reinstatement, such reinstatement would be subject to Segal being on probation for three years; during that three-year period, Segal would have to complete double the yearly requirement of CLE credits.

The hearing panel found that Segal had met his burden for reinstatement. Thus, the panel recommended that Segal be reinstated, subject to a three-year probation from the effective date of reinstatement, subject to meeting the following conditions:

1. Meeting double the CLE requirement for each calendar year;
2. No solo practice;
3. A mentor agreement, with quarterly reports, and a mentor approved by the state bar;
4. Retaking the MPRE;
5. Payment of the costs of the disciplinary proceedings, excluding staff salaries, offset by Segal's \$1,000 advance deposit already paid; and
6. No additional discipline during the probation period for conduct occurring after reinstatement.

The court approved the panel's recommendation that the petition be granted subject to conditions.

For more information about this order, visit: <http://www.nvbar.org/civicrm/file?reset=1&id=368&eid=4849>

**RESIGNATIONS,
 No Discipline Pending:**

Name	Bar Number	Case Number
Andrew L. Strom	5514	69314
Loddavahn Elizabeth Tolzmann	9922	69316
Elizabeth Angela Bool	3753	69317
Donald Cavin Hill	858	69318
Don P. Martin	4687	69320
Christine M. Schwamberger	10220	69313
Benjamin Yu	10807	69319

TIPS FROM THE OFFICE OF BAR COUNSEL

Scenario:

I have a number of long-term employees that I've grown to trust, and who came with good qualifications and references. They're good people and I like working with them. But I have colleagues telling me to keep a wary eye. What should I do?

Rule 5.3 outlines your duties as an attorney when it comes to dealing with your non-attorney assistants.

Essentially, what you must remember is that the professional actions of your assistants are ultimately your responsibility as an attorney. It becomes especially problematic if you give them duties that should only be done by you. If you have a signature stamp, you are the only one who should have access to it. Additionally, only you should have access to your trust account.

You may trust your staff, and you may be a great boss, but as an attorney you're entrusted with your clients' monies and documents. If there's something going on at your firm you don't know about, it means you need to do more to supervise. People we trust can make mistakes. They can get into jams, and be tempted to cross an ethical line. You can't let that happen; it is your responsibility. And it's your license and good name that are at stake.

TRAINING
ALERT

2016 NEVADA GOVERNMENT CIVIL ATTORNEYS CONFERENCE

**Hard Rock Hotel & Casino –
Lake Tahoe, NV
May 11-13, 2016**

The State Bar of Nevada Public Lawyers Section will sponsor the 2016 Nevada Government Civil Attorneys Conference, scheduled for May 11-13 at the Hard Rock Hotel & Casino at Lake Tahoe, NV. This conference is an annual forum for networking and education on the critical issues facing government counsel representing state, municipal, county or other public entities.

The registration fee for the conference is \$50 for members of the Public Lawyers Section and \$499 for non-members. The registration fee includes all conference materials and some meals. The conference will feature approximately 10 hours of CLE presentations (including ethics), and the Public Lawyers Section annual meeting on May 12th. Attendees may register with the State Bar of Nevada at www.nvbar.org.

REGISTRATION DEADLINE IS April 29, 2016.

Attendees are responsible for making their lodging reservations; contact the Hard Rock Hotel & Casino at 1-844-588-7625 prior to April 15th and request the group rate for the Nevada Government Civil Attorneys Conference.

For further information, please contact Brett Kandt, Public Lawyers Section Chair, at (775)684-1201 or e-mail bkandt@ag.nv.gov.