

TAKING RESPONSIBILITY BAR COUNSEL WEIGHS IN ON ETHICAL AND DISCIPLINARY ISSUES

BY JIM SHILANDER, COMMUNICATIONS SPECIALIST,
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Bar Counsel Stan Hunterton says he's noticed some understandable, but still troubling, issues during his first six months on the job, especially while reviewing disciplinary actions and investigations.

“Very little surprises me after all these years,” Hunterton said. “After all, lawyers are people too. What surprises me is the volume of these thefts, misappropriations, and failures to abide by the rules. I didn’t think there’d be so many.”

Responsibility to Clients

The legal profession, Hunterton said, is one that is given special responsibilities and powers, in terms of working on behalf of clients. And it's a responsibility that needs to be taken seriously.

“An essential part of this profession is trust,” he said. “We have clients who trust us to handle their affairs. We receive money from third parties who trust us to distribute it properly and legally. We have more opportunities to take something that isn't ours than most other people. And, unhappily, people succumb to that for all the same reasons human beings succumb to temptation.”

Hunterton recalled a conversation about this issue he'd had with another attorney while in private practice. Often, he said, a trust account can simply be a much-too-tempting target, especially if there's a convenient excuse not to pay out funds right away, such as negotiations with lienholders.

“He described the trust account as ‘a blinking green light that says, steal me,’” Hunterton recalled.



“Every day brings a temptation to use secretaries or paralegals to do the work...”



a friend or colleague, but the oath taken by all attorneys must take precedence.

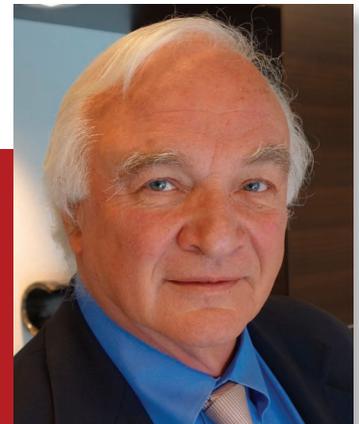
“Here you go beyond ethical or moral responsibility for the actions of your partners and employees. This is a legal obligation,” he said. “Hopefully, we’re all fortunate enough to have one or more friends that we’re so close to that if we found out they’d done something wrong, it’d be hard to do anything about it, whether it is report them to the bar or report them to law enforcement. We’re in a special situation, though not unique. In architecture, if you know the guy sitting next to you is designing a building that’s not safe and stable, you’re responsible. You’ve got to do something. If you’re a doctor, and one of the people you practice with is not meeting the standard of your oath, you’re responsible for it. As hard as it is, you’ve got to do something about it.”

“The majority of lawyers who’ve misappropriated trust accounts, or taken money and not performed the agreed-upon services, are not at the end of their rope or suffering addiction or bad business reversals. They’re stealing the money because they’re greedy and they can.”

Responsibility to the Profession and Employees

There have also been some unique issues, Hunterton noted. In one recent case, an attorney failed to report the actions of a partner, ultimately resulting in discipline for both attorneys. Hunterton said there is certainly a temptation to trust

STAN HUNTERTON began his career as a Special Attorney with the United States Department of Justice’s Organized Crime Strike Force in Detroit. In 1978, he moved to Las Vegas and continued working with the Justice Department’s Strike Force. He was Deputy Chief Counsel to the President’s Commission on Organized Crime in Washington, D.C. from 1984 to 1985. In 1985, Hunterton went into private practice in Las Vegas. He became Bar Counsel for the State Bar of Nevada in October 2015.



**Bar Counsel
Stanley Hunterton, Esq.**

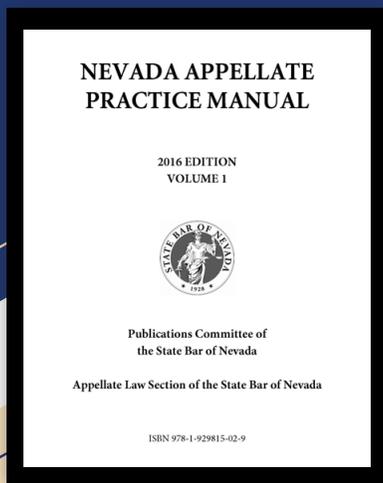
The same can be said of those who work for attorneys, he said. Many discipline cases involving non-lawyer assistants boil down to lawyers asking too much of non-attorneys, especially at smaller firms.

“Depending on the type of practice, you need a certain volume to achieve profitability, whether that’s personal injury

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or loan modifications, bankruptcy or any number of areas,” he said. “Every day brings a temptation to use secretaries or paralegals to do the work, because you can process more clients and therefore make money. It’s just wrong. The fact that it’s necessary in order to serve all your clients is no excuse: never has been or will be. What you need to do is hire another lawyer or take fewer clients. Those are the acceptable choices, not pawning off clients on paralegals and secretaries. Accept that. That’s a fact.”

Responsibility to Your Colleagues

Sometimes, it can be necessary to step in and help a colleague too. Both Lawyers Concerned for Lawyers, which is anonymous and allows for peer-to-peer support for attorneys who are struggling with addiction, and the Nevada Lawyer Assistance Project, which provides clinical help for those who need it, are available to all attorneys in the state. And, Hunterton said, it’s important for attorneys to know they can call when a colleague needs help.

“It is easier said than done, and it is uncomfortable,” Hunterton said, “but that will be a small enough price to pay if that friend or lawyer gets some help. I’m not suggesting lawyers get in the diagnosis or treatment business. None of us are qualified. But we are qualified to be in the alarm business. We have people who can work with a lawyer you’re concerned about, to see that he or she is ready to go to one of these groups. Pass that observation along, and we’ll see what we can do with it.”

Stress is part of the job, perhaps more in law than any other profession. But attorneys who can get help, should, he said. It may help lead to a reduction in discipline, and more importantly, a healthier profession.

“If we could eliminate, or even cut in half the cases where theft is associated with an addiction, it would be a big step forward.” **NL**