

In Re: NOEL PALMER SIMPSON
Bar No.: 9642
Case No.: 78037
Filed: 02/22/2019

ORDER OF DISBARMENT

The Southern Nevada Disciplinary Board has filed, under SCR 112, a petition for attorney Noel Palmer Simpson's disbarment by consent. The petition is supported by Simpson's affidavit, stating that she freely and voluntarily consents to disbarment, after having had the opportunity to consult with counsel. Simpson acknowledges in the affidavit that she has violated RPC 8.4(b), which provides that it is professional misconduct for a lawyer to "[c]ommit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." The criminal act at issue involves Simpson's guilty plea to one count of exploitation of an older or vulnerable person in violation of NRS 200.5092, a category B felony. Simpson admits that she could not successfully defend against a disciplinary complaint.

SCR 112 provides that an attorney who is the subject of a proceeding involving allegations of misconduct may consent to disbarment by delivering an affidavit to bar counsel, who must file it with this court. Simpson's affidavit meets the requirements of SCR 112(1), and we conclude that the petition should be granted. Accordingly, Noel Palmer Simpson is disbarred. The provisions of SCR 115 and SCR 121.1 governing notice and publication of orders of disbarment shall apply to this order.

It is so ORDERED.

In Re: ANDREW A. LIST
Bar No.: 6725
Case No.: 77707
Filed: 02/22/2019

ORDER APPROVING CONDITIONAL GUILTY PLEA

This is an automatic review of a Northern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Andrew List. Under the agreement, List admitted to violating RPC 1.3 (diligence), RPC 1.4 (communication), RPC 3.1 (meritorious claims and contentions), and RPC 3.4 (fairness to opposing party and counsel), and agreed to a 90-day suspension.

List has admitted to the facts and violations as part of his guilty plea agreement. The record therefore establishes that List violated the above-listed rules by failing to diligently participate in or file documents or respond to motion practice on behalf of four clients; by failing to communicate with those clients or respond to requests for information; by filing a petition to terminate parental rights without a good faith belief in the merits of the petition; and by failing to appear at two court hearings and failing to respond to two court orders.

The issue for this court is whether the agreed-upon discipline sufficiently protects 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 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).

List has admitted to knowingly violating duties owed to his clients (diligence and communication), the legal system (meritorious claims and contentions), and the legal profession (fairness to opposing party and counsel). List's clients were injured or potentially injured by his lack of diligence and communication. Further, the legal system and the profession were injured. The baseline sanction before considering aggravating and mitigating circumstances is suspension. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.42 (Am. Bar Ass'n 2017) (providing that suspension is appropriate when "a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client"); Standard 6.22 ("Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding").¹ The record supports the panel's findings of two aggravating circumstances (pattern of misconduct and substantial experience in the practice of law) and three mitigating circumstances (absence of prior disciplinary record, absence of dishonest or selfish motive, and cooperative attitude toward the proceeding by submitting the conditional guilty plea agreement). Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Andrew List for 90 days from the date of this order. List shall reimburse Karen Sanchez \$500 within 60 days from the date of this order. Additionally, List shall complete 10 CLE credits in law office management, or ethics if law office management classes are unavailable, in addition to his annual requirement, within 12 months from the date of this order, unless List is placed on inactive status within 30 days of his reinstatement, in which case the additional credits need not be completed until he returns to active status. List shall notify the Office of Bar Counsel upon completion of those credits. Lastly, List shall pay the costs of the bar proceedings, including \$2,500 under SCR 120, within 60 days from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

ROBERT W. LUECK
Bar No.: 1489
Grievance File No.: OBC18-0351 & OBC18-0689
Dated: 03/04/2019

LETTER OF REPRIMAND

To Robert W. Lueck:

In September 2016, Tina Groom ("Groom") retained you in a family-law matter. You represented her in the matter and received final visitation orders in early 2017. Later that year Groom began to have other issues that were materially different from her prior issues. On January 21, 2018 Groom emailed you with information regarding the new issues to be used in a motion for you to file. You responded on January 23, 2018 and informed Groom you were moving offices and asked for her

patience. You sent a follow-up email indicating you would have the motion done the following week.

Groom tried to reach you several times over the next two months. You never responded to her calls. The State bar received her grievance soon after. The State Bar sent you 3 letters over the course of 3 months requesting your response to Groom's allegations. You did not respond to the State Bar's request for information.

On June 1, 2018, the State Bar called you to confirm you had received its letters. You confirmed receipt but claimed that you had been too busy to respond. The State Bar sent you a fourth letter on June 4, 2018 to which you sent your belated response.

James Pintar ("Pintar") retained you in March 2018 in a guardianship and estate matter regarding his mother. After filing a Petition, you failed to attend a status hearing. At the status hearing, the judge vacated the Petition because you failed to serve the Petition on all parties. You also failed to communicate with Pintar and opposing counsel when they reached out to you. You appeared at the hearing on August 1, 2018 but Pintar did not want you to represent him anymore. Pintar filed a grievance with the State Bar.

The State Bar again sent you 3 letters over the course of the next 2 months requesting your response to Pintar's allegations. You did not respond to the State Bar's request for information. On August 11, 2018 you sent an email to the State Bar indicating you would provide a response by August 24, 2018. On August 31, 2018, the State Bar sent a fourth letter requesting a response. You did not respond.

Letters sent by the State Bar in both the Groom and Pintar matters warned that failure to respond to the allegations would subject you to separate disciplinary violations under Rules of Professional Conduct ("RPC") 8.1(b) (Bar Admission and Disciplinary Matters).

In light of the foregoing, you violated RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 8.1(b) (Bar Admission and Disciplinary Matters), and RPC 3.2 (Expediting Litigation), and are hereby **PUBLICLY REPRIMANDED**.

STEPHEN CARUSO

Bar No.: 6588

Grievance File No.: OBC18-0709

Dated: 01/11/2019

LETTER OF REPRIMAND

To Stephen Caruso:

You represented Christie Lee ("Lee") during the course of her child custody matter.

On or before August 6, 2018, Lee asked you to withdraw from her case. The Court minutes from a Court hearing on August 6, 2018 reflect that you expressed your intention to withdraw. Also, during the August 6, 2018 hearing, the Court requested you withdraw immediately. You failed to withdraw from this matter.

RPC 1.16(3) (Declining or Terminating Representation) provides that a lawyer shall withdraw from representation if the lawyer is discharged. You breached this duty by failing to withdraw after Lee discharged you, despite the Court cautioning you to do so. You ignored both your client's

directive and a Court Order by failing to withdraw.

Your failure to timely withdraw from Lee's matter violates RPC 1.16(3). As such, you are hereby **REPRIMANDED**.

The State Bar contacted you via your attorney on October 8, 2018, October 24, 2018 and December 11, 2018, requesting information relating to the State Bar's investigation of the Lee matter. The State Bar did not receive a response.

RPC 8.1(b) prohibits a lawyer from knowingly failing to respond to a lawful demand for information from the State Bar. You breached this duty by failing to respond to the State Bar's inquiries on November 8, 2018, December 6, 2018 and December 11, 2018.

Your actions in failing to respond to the State Bar's inquiries violate RPC 8.1(b). As such, you are hereby **REPRIMANDED**. 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).

LOUIS SCHNEIDER

Bar No.: 9683

Grievance File No.: OBC18-0872

Dated: 02/12/2019

LETTER OF REPRIMAND

To Louis Schneider:

On February 12, 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 August 24, 2018, the State Bar subpoenaed your IOLTA and operating account records from US Bank. Upon review of the records, it was apparent that you were not depositing all unearned fees into your operating account.

While the majority of your cases involve criminal or family law matters with only flat or earned fees, on at least two occasions you deposited unearned fees into your operating account. On at least one occasion, you deposited money into the operating account which came from a client for the benefit of a third-party, and on at least two occasions you made payments for client medical liens out of your operating account. None of these transactions resulted in any client or third-party harm.

Nevada Rule of Professional Conduct 1.15 (Safekeeping Property) requires a lawyer to hold funds of clients or third persons that are in the lawyer's possession separate from the lawyer's own property in an identifiable trust account. Additionally, it requires a lawyer to deposit into a trust account all legal fees paid in advance, to be withdrawn by the lawyer as the fees are earned.

Accordingly, you are hereby **REPRIMANDED** for having violated Rules of Professional Conduct ("RPC") 1.15 (Safekeeping Property).

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.

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ROBERT C. BELL
Bar No.: 1362
Grievance File No.: OBC18-1045
Dated: 02/21/2019

LETTER OF REPRIMAND

To Robert C. Bell:

On February 21, 2019, a Screening Panel of the Northern Nevada Disciplinary Board considered the above-referenced grievance. Based on the evidence presented, the Panel concluded that you violated the Rules of Professional Conduct and should be issued a Letter of Reprimand. This letter shall constitute a delivery of that reprimand.

The State Bar received a grievance reporting that you attempted to enter a guilty plea in a traffic violation matter pending in East Fork Justice Court but had failed to first consult with your client to confirm that such a plea was what your client wanted. You admitted that you did not communicate with your client prior to trying to enter into the guilty plea on his behalf. In addition, you submitted a waiver of your client's constitutional right to a speedy trial in the justice court matter which purported to be signed by your client, but was not in fact signed by him. All of this came to light with the Court when the client appeared at the pre-trial conference, but you did not and you sent in a document advising the Court that the matter was not contested.

You were retained to represent the client in the traffic violation matter via a company called TVC Pro-Driver, Inc., ("TVC") which finds attorneys in local jurisdictions to address traffic citations for long-haul truckers. TVC provided you with a "Limited Power of Attorney" from the client indicating that he was willing to "allow attorney to enter into a plea agreement (negotiate for a reduction, amendment or dismissal of charge)." You incorrectly assumed that this Limited Power of Attorney authorized you to dispose of the case without first consulting with the client and abiding by his decision regarding any specific plea to be entered.

You negotiated the traffic citation with the approval of the client after a Show Cause Hearing requiring your personal attendance with the client in the East Fork Justice Court.

RPC 1.2(a) (Scope of Representation and Allocation of Authority Between Client and Lawyer) requires that "in a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered." In this instance, you knowingly failed to directly consult with your client regarding the plea to be entered. Your failure to consult with your client resulted in potential injury to him, which would have been the entry of a traffic violation against the him and a fine.

RPC 3.3 (Candor Toward the Tribunal) states that "a lawyer shall not knowingly (1) make a false statement of fact or law to a tribunal." In this instance, you submitted a waiver of the client's right to a speedy trial that was purportedly signed by the client, but you knew the client had, in fact, not signed the waiver. Your false statement to the tribunal resulted in a potential injury to the client, which was avoided by the client's own appearance. Admittedly, any injury would have still been minimal because the waiver was only regarding the adjudication of a traffic violation. Nonetheless, the document was not what it purported to be.

Pursuant to Standard 7.2 of the American Bar Association's Standard for Imposing Lawyer Sanctions "suspension is generally appropriate when a lawyer knowingly

engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system." In addition, pursuant to Standard 6.12 "suspension is appropriate when a lawyer knows that false statements or documents are being submitted to the court ... takes no remedial action, and causes injury or potential injury to a party to the legal proceedings, or causes an adverse or potentially adverse effect on the legal proceeding." Thus, your violations of RPC 1.2 (a) and RPC 3.3 warrant a suspension.

However, the Panel has considered that had the client been injured in this instance, such injury would have been minimal, you were forthcoming in your response to the State Bar's investigation, and you have engaged in the practice of law for approximately 39 years without any instance of prior discipline. The Panel concludes that these mitigating factors warrant a downward deviation from the presumptive sanction of a suspension to the issuance of a Letter of Reprimand.

Accordingly, you are hereby **REPRIMANDED** for violating RPC 1.2 (a) (Scope of Representation and Allocation of Authority Between Client and Lawyer) and RPC 3.3 (Candor Toward the Tribunal) and assessed the SCR 120 cost of \$1,500. The SCR 120 cost shall be paid no later than 30 days after the issuance of this letter. I 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
Davis F. VanderVelde	7943	78032	02/12/2019
Daniel Thomas Foley	8068	78023	02/12/2019
Lynn L. Steyaert	3337	78029	02/12/2019
Blaine F. Bates	5215	78022	02/12/2019
Lisa G. Lewallen	7424	78024	02/12/2019
Christopher J. Walker	10465	78033	02/12/2019
Patrick J. Sullivan	9292	78031	02/12/2019
Victor Hugo Schulze, II	3596	78027	02/12/2019
Yvonne N. Maddalena	9367	78025	02/12/2019
Gregory E. Smith	1590	78028	02/12/2019

1. While Standard 6.22 particularly addresses the violation of a court order, 6.2 provides that the sanctions in that section "are generally appropriate in cases involving failure to ...bring a meritorious claim" as well as cases involving a "failure to obey any obligation under the rules of a tribunal." *Compendium of Professional Responsibility Rules and Standards*, Standard 6.2.

TIPS FROM THE OFFICE OF BAR COUNSEL

LAW FIRM RESPONSIBILITIES AND RULE 5.1(A)

The primary purpose of the Office of Bar Counsel is to safeguard the public, uphold the integrity of the profession and protect the administration of justice. The office prosecutes lawyers who violate the Rules of Professional Conduct. Benjamin Franklin said, “An ounce of prevention is worth a pound of cure.” So, the office also offers education and a confidential ethics hotline to help lawyers practice ethically and competently.

However, the Office of Bar Counsel is not alone. Rule 5.1(a) states: “A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.”

The firm’s leadership should set policies and procedures to help its lawyers follow the Rules of Professional Conduct.

Rule 5.1(a) does not give any specifics regarding firm management, but the comments to Rule 5.1 offer some guidance. Firms should have policies or procedures to recognize conflicts of interest, to meet procedural deadlines, to account for client property and to mentor new attorneys. Firm management has discretion over the details based on firm size and nature of practice. Also, firms should offer internal education and training.

Thoughtful policies and procedures will help firms and their lawyers safeguard the public, uphold the integrity of the profession and protect the administration of justice.

**State Bar Publication:
Contract Templates
for Nevada Attorneys**



The first edition from the state bar’s Publications Committee, Contract Templates for Nevada Attorneys provides lawyers with **more than 60 sample contract templates** covering the most commonly used transactions, such as lease agreements and deeds of trust. Written by Nevada attorneys, these forms have been adapted from documents actually used in practice.

The manual includes forms designed as a starting point for practitioners to craft custom agreements. The templates can and should be adjusted to fit your clients’ specific needs or requirements.

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