

In Re: Gerry G. Zobrist
Bar No.: 7223
Supreme Court Case No.: 67471
Filed: April 10, 2015

ORDER OF DISBARMENT BY CONSENT

Joint petition for disbarment by consent. The attorney pleaded guilty on a felony count of conspiracy to commit wire fraud and bank fraud.

The Southern Nevada Disciplinary Board and attorney Gerry G. Zobrist filed a joint petition for Zobrist's disbarment by consent pursuant to SCR 112. The petition acknowledges that Zobrist recently pleaded guilty to one felony count of conspiracy to commit wire fraud and bank fraud in the U.S. District Court. The petition is supported by Zobrist's affidavit, in which he states that he consents to disbarment and does so freely and voluntarily, that he has not been subjected to any coercion or duress and that he is fully aware of the implications of his consent. Zobrist concedes that the material facts in the state bar's formal complaint are true. He submits the affidavit with full knowledge that if the state bar were to prosecute his case, he could not successfully defend against the charges.

Pursuant to SCR 112(1), an attorney who is the subject of an investigation or proceeding involving allegations of misconduct may consent to disbarment by submitting the requisite affidavit. The court found that Zobrist's affidavit meets the requirements of SCR 112(1), and granted the irrevocable disbarment by consent.

In Re: Keith E. Gregory
Bar No.: 232
Supreme Court Case No.: 70919
Filed: September 12, 2016

ORDER OF DISBARMENT

Joint petition for disbarment by consent. The attorney pleaded guilty to multiple violations of Nevada Rules of Professional Conduct and was convicted of multiple felonies.

The Southern Nevada Disciplinary Board and attorney Keith Gregory filed a joint petition for disbarment by consent. The petition acknowledges that Gregory violated RPC 8.4(b) (misconduct: commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(c) (misconduct: conduct involving dishonesty, fraud, deceit or misrepresentation) based on his conviction in the U.S. District Court of conspiracy to commit wire and mail fraud, and two counts of wire fraud, all felonies.

Gregory admits that he could not successfully defend against a disciplinary complaint. (The Supreme Court previously entered an order temporarily suspending Gregory from the practice of law and referring him to a disciplinary board based on his felony convictions. In re: Discipline of Keith Gregory, Docket No. 67744 (Order of Temporary Suspension and Referral to Disciplinary Board, July 21, 2015).

SCR 112 provides that an attorney who is the subject of a proceeding involving allegations of misconduct may consent to disbarment. The Supreme Court found that Gregory's affidavit meets the requirements of SCR 112(1) and granted the irrevocable disbarment by consent.

In Re: Thomas C. Michaelides
Bar No.: 5425
Supreme Court Case Case No.: 70339
Filed: September 12, 2016

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

Attorney suspended for 90 days following admission of violations of RPC 1.2 (scope of representation), RPC 1.4 (communication) and RPC 8.1(a) (bar admission and disciplinary matters).

A disciplinary panel of the Southern Nevada Disciplinary Board recommended a 90-day suspension for attorney Thomas Michaelides following admission of multiple rules violations.

Michaelides was retained by a client in 2010 for representation for a misdemeanor jaywalking violation. He accepted a plea deal on her behalf without discussing it with her. When he initially responded to the grievance against him, Michaelides informed the state bar he had been instructed to accept the agreement. He admitted to violating RPC 1.2 (scope of representation), RPC 1.4 (communication) and RPC 8.1(a) (bar admission and disciplinary matters).

Another client retained Michaelides to represent him in a personal injury case. Michaelides failed to pay a \$500 bond until months after the client provided the funds, resulting in a motion to dismiss from the defendant. One month after the client provided Michaelides with the \$500, Michaelides' trust account was overdrawn, even though Michaelides had yet to pay the bond.

In the course of investigating that grievance, the state bar discovered Michaelides had, on at least four occasions, used his trust account as a personal/operating account.

In a third case, Michaelides failed to file a court-ordered pretrial memorandum, precluding his client from presenting witnesses' exhibits at the bench trial, leading to a summary judgement against him.

Finally, during his representation of a fourth client in 2012, Michaelides failed to appear for several hearings. As such, Michaelides was fined \$500, which he did not timely pay, and the client's answer was stricken.

The hearing panel noted Michaelides had several aggravating factors, including prior discipline, pattern of misconduct and substantial experience in practice, though the court noted some time had passed since the violations had occurred. The hearing panel also noted mitigating factors, including character or reputation, interim steps of rehabilitation and remorse. The hearing panel entered an order recommending approval of the conditional guilty plea agreement for a 90-day suspension. The recommendation also required Michaelides to pay the costs of the bar proceedings (excluding Bar Counsel and staff salaries), pay a \$5,000 fine to the state bar, and take a minimum of six CLE classes in the areas of ethics and law practice management.

The Supreme Court agreed with the hearing panel's recommendation, imposing a 90-day suspension, along with the recommended probationary terms.

Justices Cherry and Pickering recused themselves voluntarily from the matter. Justice Saitta did not participate, having retired.

In Re: C. Benjamin Scroggins
Bar No.: 7902
Supreme Court Case No.: 70588
Filed: September 12, 2016

ORDER OF SUSPENSION

Attorney suspended for 120 days, to be followed by two years of supervision, following violations of RPC 1.3 (diligence) and RPC 8.1(b) (bar admissions and disciplinary matters).

A Southern Nevada Disciplinary Board hearing panel recommended discipline of attorney C. Benjamin Scroggins.

Scroggins, representing a client in an action to recover damages for the negligent repair of a company truck, failed to send a demand letter to the repair company, despite several attempts by the client to contact him. After the client, who had provided a \$1,000 retainer, filed a grievance with the bar, Scroggins told the bar he had lost the file and that the letter would be sent shortly. It was not sent.

The bar then sent a number of letters to Scroggins regarding the status of the letter. After not receiving a response, the bar filed a complaint on November 9, 2015, alleging violation of RPC 1.3 (diligence) and RPC 8.1(b) (bar admissions and disciplinary matters). Scroggins failed to respond to the complaint. The state bar proceeded on a default basis and a southern Nevada hearing panel entered the default order. Scroggins sought to set aside the order, but the panel denied the motion and deemed the allegations admitted, but allowed him to submit evidence of mitigation at the disciplinary hearing. At the hearing, Scroggins stated his wife was diagnosed with cancer shortly after he had been retained and he had, "essentially kind of quit working," in order to care for her. As a result, he was evicted from his home and, during the move into a friend's home, the client's file was lost. He also indicated that he had been working for a law firm but developed health problems, resulting in a drop in his billable hours and dismissal from the firm in March 2016.

The panel found Scroggins violated RPC 1.3 (diligence) and RPC 8.1(b) (bar admissions and disciplinary matters), and suspended him from practice for 120 days. The panel also recommended that, following his suspension, he be placed on probation for two years, under the supervision of the state bar and a mentor selected by the state bar. The panel recommended the following conditions of probation, that Scroggins:

- Meet with his mentor at least once a month, follow the mentor's guidelines and recommendations, and submit quarterly reports to the state bar from the mentor certifying compliance; and
- Refrain from having access or control over any trust accounts.

The panel further recommended Scroggins be required to participate in the Nevada Lawyer Assistance Program (NLAP). Finally, the panel recommended that he pay the costs of the disciplinary proceedings, including Bar Counsel and staff salaries, within 90 days of receipt of the state bar's bill of costs.

The court agreed to the stipulations, as well as a requiring Scroggins to repay the client \$1,250 before the end of the suspension.

RESIGNATIONS – NO DISCIPLINE PENDING

Name	Bar No.	Case No.
Robert W. Story	1268	70755
Alan Beckman	6217	70757
Bruce M. Judd	98	70758
Christopher James Keller	8823	70759

TIPS FROM THE OFFICE OF BAR COUNSEL

Q: Our firm has a few young associates who some of the partners believe might be preparing to leave by the end of the year. As a firm, what can we do to protect ourselves?

A: The first and perhaps most important issue is the protection of the client's interests. Remember, it is ultimately up to the client whether they wish to stay with the firm or go with the attorney. Secondly, consider the fee agreements. If the agreements are in the firm's name, rather than the attorney's, the firm has more protection. If you've given away control, you're at greater risk.

RPC 7.3 says attorneys may contact clients with whom they have a prior professional relationship. Ultimately, this means that if your associates are working directly with clients, they have a right to ask those clients to move with them. For the firm's sake, it's important that you or others at the firm be visible to clients as well. However, it remains, ultimately, the client's decision if they wish to move on.

If you suspect you may have an associate who might leave at a moment's notice, or even take files with him/her, you need to be sure of the associate's calendar and make sure you have any upcoming depositions or hearings covered.

If an associate does leave, remember that the client is the most important person. If an attorney is leaving with your blessing and taking files as well, be sure a substitution of counsel form has been signed to cut-off firm responsibility.

Any bar members wishing to submit their own ethical dilemma or scenario for publication as a future bar counsel tip, should email jjms@nvbar.org.