

**In Re: Paul E. Wommer**

**Bar No.: 15**

**Case No.: 70701**

**Filed: July 11, 2017**

## ORDER OF SUSPENSION

*Attorney suspended for three years, retroactive to December 17, 2013, following a felony conviction and conditional guilty plea agreement following an admission of violating RPC 8.4(b).*

A Southern Nevada Disciplinary Board hearing panel recommended the Nevada Supreme Court approve a conditional guilty plea for attorney Paul Wommer.

Wommer had been convicted in the United States District Court on five felony counts, including three counts of structuring financial transactions in violation of 31 U.S.C. §§ 5324(a)(3), (d)(1), and (d)(2) and 18 U.S.C. § 2; one count of tax evasion in violation of 26 U.S.C. § 7201 and 18 U.S.C. § 2; and one count of making and subscribing a false return, statement, or other document in violation of 26 U.S.C. § 7206 and 18 U.S.C. § 2.

Wommer had a dispute with the IRS in which he refused to pay interest and penalties he owed for tax year 2007. When Wommer became aware that the IRS intended to levy his bank accounts, he made 15 cash withdrawals of mostly \$9,500 each from the accounts over a week-long period and deposited the funds into his secretary's account at the same bank. When the IRS levied Wommer's accounts, the money was gone. The transfers were structured to evade the bank's reporting requirements for cash transactions over \$10,000 and to defeat the IRS's levy. Wommer also made a false statement on an IRS Form 433-A, declaring, under penalty of perjury, that his accounts contained \$1,000 when he knew they actually contained substantially more than that amount.

Under the conditional guilty plea agreement, Wommer admitted to violating RPC 8.4(b) (misconduct: commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer). The agreement provided for a three-year suspension retroactive to December 17, 2013, the date that this court temporarily suspended Wommer from the practice of law pursuant to SCR 111. The agreement further provides that Wommer must undergo a psychological evaluation before filing a petition for reinstatement, and pay the actual costs of the disciplinary proceedings.

By virtue of the guilty plea agreement, Wommer has admitted to the facts and violations alleged in the complaint.

In considering the duties violated, the injury caused by his misconduct, and the aggravating and mitigating circumstances, the court concluded the guilty plea agreement should be approved. Wommer's criminal acts implicated his ethical duty owed the public, and the court noted he had substantial experience in the practice of law and engaged in illegal conduct with a selfish motive. Mitigating circumstances included his cooperation with the bar investigation, his good reputation and character, that he suffered other penalties including imprisonment and forfeiture, and presented evidence of a physical and/

or mental disability that may have clouded his judgment. Wommer's actions did not involve clients or client funds.

The court suspended Wommer from the practice of law for three years, retroactive to December 17, 2013, the date of his temporary suspension. Before petitioning for reinstatement, Wommer must undergo a psychological evaluation. Additionally, Wommer shall pay the actual costs of the disciplinary proceeding as invoiced by the state bar within 30 days from the date of this order.

Justice Kristina Pickering, with whom Justices James W. Hardesty and Lidia S. Stiglich agree, concurring:

"I write separately because I believe that a four-year suspension, retroactive to the date of the temporary suspension, is more appropriate discipline for Wommer's misconduct. Wommer was convicted in the United States District Court of five felony counts including structuring financial transactions, tax evasion, and making a false statement under penalty of perjury. His conduct involved elements of dishonesty and fraud. Public confidence in the legal profession depends upon attorneys abiding by high standards of integrity and honesty. See ABA Standards for Imposing Lawyer Sanctions, Compendium of Professional Rules and Standards 450 (2016) ("The community expects lawyers to exhibit the highest standards of honesty and integrity, and lawyers have a duty not to engage in conduct involving dishonesty, fraud, or interference with the administration of justice."). Nevertheless, because Wommer entered a conditional guilty plea in exchange for a three-year suspension that runs retroactively to the date of his temporary suspension, December 17, 2013, I would approve the conditional guilty plea agreement. By the time Wommer petitions for reinstatement he effectively will have been suspended for close to four years, and therefore, rejecting the conditional guilty plea agreement and sending the matter back for imposition of a four-year term would be an exercise in futility. For these reasons, I concur."

**In Re: Samuel F. Stapleton**

**Bar No.: 3819**

**Case No.: OBC 17-0298**

**Effective Date: June 16, 2017**

## LETTER OF REPRIMAND

To Samuel F. Stapleton:

"On March 7, 2017, the state bar received a notice from Wells Fargo Bank that an overdraft had occurred on your trust account ending in 6110. The notice indicated that a \$4,000 withdrawal was made in the bank on February 23, 2017, that left a negative balance of \$11. The transaction was paid and added a \$35 fee.

A Letter of Investigation was sent to you on March 10, 2017, from the state bar. On March 30, 2017, you came to the state bar offices and requested to speak to the state bar investigator. During that conversation, you [indicated that you] felt the overdraft was due to bank error; however, the bank had refused your request to advise the state bar

as such. You said that this overdraft occurred because the bank 'took out more in wire fees than normally.'

You went on to describe that a client, for 'many years,' has had cash transferred into your trust account from overseas, which you then withdraw in cash and give to her. The receipts are signed and dated by the client with the statement: 'I acknowledge receipt of the above noted cash funds from S. Frank Stapleton, Esq. I understand I have sole responsibility to pay all Federal and local taxes on the funds received.'

You said that this transaction occurs several times a month, because the client 'has no bank account.'

You thought that the bank paid the wire transfer fees from the transferred funds, but your statements and receipts to the client indicate that you were paying the transfer fees from the residual funds in the account. This is a violation of the Rule of Professional Conduct 1.15 (safekeeping).

Accordingly, you are hereby **REPRIMANDED** for this violation. Pursuant to SCR 120(1), we are imposing fees of \$1,500 to be paid to the state bar within 30 days of receipt of this letter. We trust that this Letter of Reprimand will serve as a reminder to you of your ethical obligations, and that no such problems will arise in the future."

**In Re: Richard E. Hawkins**  
**Bar No.: 3731**  
**Case No.: OBC15-1610**  
**Filed: June 12, 2017**

**LETTER OF REPRIMAND**

To Richard E. Hawkins:

"A Formal Hearing Panel of the Southern Nevada Disciplinary Board met on May 24, 2017, and pursuant to a Conditional Guilty Plea In Exchange for a Stated Form of Discipline, directed that a Letter of Reprimand be issued to you as follows:

On or about January 31, 2014, the client met with you concerning your retention for purposes of processing an I-130 Petition for Alien Relative on behalf of the client's husband. The petition had been submitted by your office prior to the meeting, and you met with the client to discuss the process going forward and the extended time-line involved.

Over the course of the next approximate 24 months, your staff interacted with the client to process the petition. During this period, your office gathered additional documents from the client and responded to Requests for Evidence in furtherance of the petition. Although there was an error concerning the client's name in the initial submission of the petition, that error was corrected by your office, and the petition was ultimately successfully submitted for processing.

Nonetheless, in December 2015, the client submitted a grievance to the state bar concerning your failure to personally communicate with the client and complaining of delay in the petition process. You subsequently referred the client to alternate counsel to complete the petition process.

However, in order to investigate the client's grievance, the state bar, through the Office of Bar Counsel, sought your substantive response to the client's concerns expressed therein. The state bar made written communication to you on at least four occasions between January 5, 2016, and April 12, 2016,

asking that you provide a substantive response to the client's concerns expressed therein. Although you emailed the state bar on several occasions between those dates to inquire concerning the status of the state bar's investigation and were granted three extensions of time to respond, you provided no substantive response to the first three written demands for information. Your April 26, 2016, attempt to deliver a substantive response after the fourth written demand, four months after it was first requested, was unsuccessful.

Based upon the foregoing, you are hereby **REPRIMANDED** for violating your obligation under Rule of Professional Conduct (RPC) 8.1(b) which requires that you, as an attorney licensed to practice law in the state of Nevada, respond to the state bar's lawful demands for information concerning a disciplinary matter. With respect to your response to the grievance submitted by your client, you failed to comply with this obligation.

Finally, in accordance with Nevada Supreme Court Rule 120(1) you are assessed costs in the amount of \$1,500, in addition to the actual costs of the disciplinary proceeding, which are to be paid by you within 60 days of your receipt of the state bar's Memorandum of Costs."

**In Re: Randal A. DeShazer**  
**Bar No.: 2337**  
**Case No.: 72229**  
**Filed: June 27, 2017**

**ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT**

*Attorney suspended for nine months following admissions to violations of RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 7.1 (communications concerning a lawyer's services), RPC 8.4(a) (misconduct - attempting to violate RPCs), RPC 8.4(c) (misconduct - misrepresentation) and RPC 8.4(d) (misconduct - prejudicial to administration of justice).*

A Southern Nevada Disciplinary Board hearing panel recommended the Nevada Supreme Court approve a conditional guilty plea for attorney Randal DeShazer.

As a condition of this agreement, DeShazer admitted to violations of RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 7.1 (communications concerning a lawyer's services), RPC 8.4(a) (misconduct - attempting to violate RPCs), RPC 8.4(c) (misconduct - misrepresentation) and RPC 8.4(d) (misconduct - prejudicial to administration of justice).

DeShazer has admitted to the facts and violations alleged in the complaint. The record therefore establishes that DeShazer violated the above-referenced rules by advertising his services while suspended from the practice of law, inaccurately indicating in his advertisement that he was facing no discipline other than his failure to pay fees, accepting a client and a \$250 retainer while guaranteeing that his license would be reinstated soon and that he would return the retainer if it was not, failing to return the retainer when his license was not timely reinstated and failing to communicate with the client.

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In reviewing the board's findings, the court determined that DeShazer violated duties owed to his client (communication, safekeeping of property, communications concerning a lawyer's services, and engaging in conduct involving dishonesty or fraud) and the profession (attempt to violate RPCs and conduct prejudicial to administration of justice). The admitted violations reflect knowing or intentional misconduct. The client was harmed because he relied on DeShazer's assertion that he would be reinstated by a certain date and his assertion that he was not subject to any discipline other than the non-payment of fees. The client was also harmed because he received no service from DeShazer in exchange for his \$250. There are five aggravating circumstances (prior disciplinary offenses, dishonest and selfish motive, vulnerability of the victim, substantial experience in the practice of law and failure to make restitution) and two mitigating circumstances (personal and emotional problems and cooperative attitude).

Considering the duties violated, the injury caused by DeShazer's misconduct, and the aggravating and mitigating circumstances, the court concluded that the guilty plea agreement should be approved.

The court suspended attorney Randal A. DeShazer from the practice of law in Nevada for a period of nine months. During his suspension, DeShazer is required to complete six CLE credits in the area of solo practice and/or law office management, and report those CLE credits directly to the Office of Bar Counsel. Further, DeShazer is required pay his client \$250 within 30 days from the date of this order, if he has not already done so. DeShazer is also required to pay the costs of the disciplinary proceedings, plus fees in the amount of \$2,500, within 90 days from the date of this order.

## TIPS FROM THE OFFICE OF BAR COUNSEL

**A prospective client recently visited my office saying she believed she had a claim as part of a lawsuit. I believe the Statute of Limitations for pressing that claim has expired. While I have told her this, she is insistent that we move forward. I don't want to press a frivolous claim. How should I proceed?**

Check to make sure that the relevant Statute of Limitations has expired. It's possible that her claim is such that the statute has tolled for some reason. If so, you can file her lawsuit. But if the statute has expired, Rule of Professional Conduct 3.1 (meritorious claim and contentions) would prohibit you from filing a claim that now has no basis in law or fact. If you know that it would be a frivolous lawsuit, it cannot be initiated.

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