In Re: ARMAND FRIED
Bar No.: 10590
Case No.: 75031
Filed: June 26, 2018

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a modified conditional guilty plea agreement in exchange for a stated form of discipline for attorney Armand Fried. Under the agreement, Fried admitted to violating RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property), and RPC 1.16 (declining or terminating representation) and agreed to a one-year suspension, stayed for two years beginning September 14, 2017.

Fried has admitted to the facts and violations alleged in four counts set forth in the complaint.[1] The record therefore establishes that Fried violated the above-listed rules by failing to diligently represent a client as he failed to properly and timely file an immigration petition on her behalf, which resulted in her being sentenced to a voluntary deportation. Additionally, Fried failed to communicate with the client and terminated his representation of her the day before her hearing without ensuring that she had obtained substitute counsel.

As Fried admitted to the violations as part of the plea agreement, the issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. *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 and mitigating factors." *In re Discipline of Lerner,* 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Fried has admitted that he violated duties owed to his client (diligence, communication, safekeeping property, and terminating representation) and to the profession (improper withdrawal of representation). Additionally, the admitted facts demonstrate that he knowingly violated his duty to the profession as he had a conscious awareness of the consequences of his untimely withdrawal of representation. *See* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards,* 452 (Am. Bar Ass'n 2017) (defining knowing as a "conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result"). Fried's client was harmed because she was sentenced to a voluntary deportation. The baseline sanction before considering aggravating and mitigating circumstances is suspension. *Id.* At Standard 7.2 (providing that suspension is appropriate when a lawyer knowingly violates a duty owed as a professional causing injury or potential injury to a client, the public, or the legal system); *see also id.* at 452 (providing that "[t]he ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations"). The record supports one aggravating circumstance (substantial experience in the practice of law) and six mitigating circumstances (absence of prior discipline, absence of dishonest motive, personal or emotional problems, full and free disclosure to disciplinary authority or cooperative attitude towards the proceedings, character or reputation, and remorse). Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Armand Fried for one year, stayed for two years beginning September 14, 2017, subject to the following conditions:

1. Fried will attend five hours of Continuing Legal Education regarding Professional Responsibility during his first year of the stayed suspension;
2. Fried will pay restitution in the amount of $3,500 to Ryan Reynolds;
3. Fried shall not be subject to discipline as defined in SCR 102. Should any such matter during the probationary period result in the opening of a grievance concerning which a Screening Panel ultimately determines that a formal hearing is warranted, the conduct shall be considered a breach of this stay, and will result in the imposition of the one-year suspension and the panel, if available, will meet as soon as possible to hold a hearing and determine if the imposition of the one-year suspension is appropriate. The 30-day notice requirement under SCR 105 is waived for such a hearing;
4. Except as otherwise stated, failure to comply with any of the foregoing conditions will result in the immediate imposition of the full one-year suspension, with no right of appeal. Successful completion of the two-year stay will relieve Fried of any future possibility of the imposition of the one-year stayed suspension; and
5. Fried shall pay the actual costs of the disciplinary proceeding, including $2,500 under SCR 120 within 30 days of this court's order, if he has not done so already.

The State Bar shall comply with SCR 121.1.

It is so ORDERED.

DOUGLAS, C.J., dissenting:
I would reject the conditional guilty plea because the admitted misconduct warrants an actual suspension to serve the purpose of attorney discipline. I therefore dissent.

In Re: GEORGE CARTER
Bar No.: 169
Case No.: 75277
Filed: July 19, 2018

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a modified conditional guilty plea agreement in exchange for a stated form of discipline for attorney George Carter. Under the agreement, Carter admitted to violating RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.15 (safekeeping property), and RPC 8.4 (misconduct). Carter agreed to a one-year suspension to run concurrent with his suspension in In re Discipline of Carter, Docket No. 70907 (Order of Suspension, May 18, 2017), and to the payment of $42,421.88 in restitution as a condition to reinstatement.

continued on page 38

continued from page 37

Carter has admitted to the facts and violations alleged in the complaint. The record therefore establishes that Carter was turning over proceeds from personal injury settlements to a nonlawyer assistant who was supposed to negotiate and pay the liens on those proceeds, but the nonlawyer failed to do so. In this instance, the nonlawyer assistant failed to negotiate or pay Carter's client's $42,421.88 medical lien. Thus, the record establishes that Carter violated the above-listed rules.

As Carter admitted to the violations as part of the plea agreement, the issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988). 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 and mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Carter admitted to knowingly violating duties owed to his client (competence, diligence, and safekeeping property) and the profession (misconduct). Carter's client was harmed because his medical lien was never paid. The baseline sanction before considering aggravating and mitigating circumstances is suspension. *See* Standards for Imposing Lawyer Sanctions, Compendium of Professional Responsibility Rules and Standards, Standard 4.12 (Am. Bar Ass'n 2017) ("Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client."). Based on the plea agreement, the panel found and the record supports two aggravating circumstances (prior disciplinary offenses and substantial experience in the practice of law) and three mitigating circumstances (timely good faith effort to make restitution or rectify consequences, full and free disclosure to disciplinary authority or cooperative attitude, and remorse). Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney George Carter from the practice of law in Nevada for a period of one year from the date of this order to run concurrent with his four-year suspension in Docket No. 70907. Carter's reinstatement will be conditioned upon his payment of restitution as set forth in the plea agreement. Further, he shall pay the actual costs of the disciplinary proceedings, including $2,500 under SCR 120. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

In Re: ANDREW D. TAYLOR
Bar No.: 8688
Case No.: 75437
Filed: July 19, 2018

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court revoke attorney Andrew D. Taylor's disciplinary probation and impose the stayed 18-month suspension based on his failure to comply with probation conditions. Because no briefs have been filed, this matter stands submitted for decision based on the record. SCR 105(3)(b).

On December 23, 2015, this court approved Taylor's conditional Guilty plea and suspended him for 120 days and imposed a stayed 18-month Suspension subject to a 2-year probation for two violations of RPC 1.5 (fees), one violation of RPC 1.7 (conflict of interest: current clients) four violations of RPC 5.3 (responsibilities regarding nonlawyer assistants), five violations of RPC 1.15 (safekeeping property), one violation of RPC 4.1 (truthfulness in statements to others), five violations of RPC 5.4 (professional independence of a lawyer), one violation of RPC 5.5 (unauthorized practice of law), two violations of RPC 7.2(k) (advertising), one violation of RPC 7.3 (communication with prospective clients), two violations of RPC 8.1 (bar admission and disciplinary matters), and five violations of RPC 8.4 (misconduct). The stayed suspension was conditioned on Taylor's compliance with probation terms, which included the conditions that both he and his mentor provide quarterly reports to bar counsel.

In the proceedings below, Taylor admitted that neither he nor his mentor submitted all of the required quarterly reports and that he therefore violated the terms of his probation. Because the stay of Taylor's 18-month suspension was subject to his compliance with the conditions of his probation, we revoke Taylor's probation and suspend him for 18 months commencing from the date of this order. Taylor shall pay the actual costs of the disciplinary proceedings within 30 days of the date of this order. SCR 120. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

In Re: IAN CHRISTOPHERSON
Bar No.: 3701
Case No.: 75747
Filed: July 19, 2018

ORDER OF REINSTATEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that suspended attorney Ian Christopherson's petition for reinstatement be granted.

This court previously suspended Christopherson for four years, retroactive to the July 24, 2013 date of his temporary suspension, for violating RPC 8.4(b) (misconduct: committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer) due to his convictions in federal court on two felony counts of tax evasion. *In re Discipline of Christopherson*, Docket No. 71050 (Order of Suspension, Jan. 19, 2018).

On February 1, 2018, Christopherson filed the underlying petition for reinstatement. The hearing panel found that Christopherson demonstrated that he had complied with the prior order of suspension and had not committed any misconduct during or since his suspension. The panel also found that Christopherson demonstrated that he had kept informed about recent developments in the law and was competent to practice, as he was an experienced attorney and had continued working in the legal profession as a law clerk or paralegal during his suspension. The panel further found that Christopherson recognized the wrongfulness and seriousness of his misconduct, and that he had the requisite honesty and integrity to be reinstated to the practice of law. Thus, the panel recommended that Christopherson be reinstated to the practice of law in Nevada subject to the condition that he refrain from setting up and managing a solo law practice for a period of two years from the date of his reinstatement.

Based on our de novo review, we agree with the panel's conclusion that Christopherson has satisfied his burden in seeking reinstatement by clear and convincing evidence. See SCR 116(2) (requiring an attorney to demonstrate the criteria for reinstatement by clear and convincing evidence); Application of Wright, 75 Nev. Ill, 112-13, 335 P.2d 609, 610 (1959) (reviewing a petition for reinstatement de novo). We therefore approve the panel's recommendation that the petition be granted subject to the condition set forth above.

Accordingly, Ian Christopherson is hereby reinstated to the practice of law in Nevada subject to the condition indicated above. Christopherson shall pay any unpaid costs of the reinstatement proceeding plus the costs of the transcript of the proceedings within 30 days of this order. See SCR 120.

It is so ORDERED.

In Re: MICHAEL C. NOVI
Bar No.: 8212
Case No.: 75220
Filed: July 19, 2018

ORDER OF SUSPENSION

This is an automatic review of a Northern Nevada Disciplinary Board hearing panel's recommendation that this court suspend attorney Michael C. Novi for one year from the date of this court's order for violating RPC 1.3 (diligence), RPC 3.2 (expediting litigation), RPC 3.3 (candor toward the tribunal), RPC 8.1 (disciplinary matters), and RPC 8.4 (misconduct). Because no briefs have been filed, this matter stands submitted for decision based on the record. SCR 105(3)(b).

The State Bar has the burden of demonstrating by clear and convincing evidence that Novi committed the violations charged. *In re Discipline of Drakulich,* 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). We employ a deferential standard of review with respect to the hearing panel's findings of fact, SCR 105(3)(b), and thus, will not set them aside unless they are clearly erroneous or not supported by substantial evidence, *see generally Sowers v. Forest Hills Subdivision,* 129 Nev. 99, 105, 294 P.3d 427, 432 (2013); *Ogawa v. Ogawa,* 125 Nev. 660, 668, 221 P.3d 699, 704 (2009). In contrast, we review de novo a disciplinary panel's conclusions of law and recommended discipline. SCR 105(3)(b).

Novi failed to file a petition to seal criminal records on behalf of a client. Additionally, he was late to court on numerous occasions and on one occasion he failed to appear, he was found asleep in his car with the motor running in the courthouse parking lot, and his failure to appear resulted in his client, who was in custody at the time, staying in custody when he otherwise likely would have been released. Novi also appeared disheveled or wearing unprofessional attire in court on two separate occasions. To explain his tardiness or unprofessional attire he provided the court with an excuse, on more than one occasion, that the court later found to be false. Novi also fell asleep while appearing in court on behalf of clients on two separate occasions.

The panel found that Novi violated RPC 1.3 (diligence) and RPC 3.2 (expediting litigation) by failing to file the petition to seal criminal records and by failing to appear for court and violated RPC 3.3 (candor toward the tribunal) and RPC 8.4(c) (misconduct: conduct involving dishonesty, fraud, deceit, or misrepresentation) on no less than five occasions when he omitted relevant information and/or made misrepresentations to the court. The panel also found that Novi violated RPC 8.4(e) (misconduct: stating an ability to improperly influence a government official) by informing the client seeking to have his criminal record sealed that he would not need to obtain an updated criminal record search because Novi had a friend in the district attorney's office who would help him without the updated search. Lastly, the panel found that Novi violated RPC 8.1 (disciplinary matters) by failing to respond to the State Bar's lawful demands for information concerning two grievances filed against him. We defer to the panel's findings of facts regarding the violations of RPC 1.3, RPC 3.2, RPC 3.3, RPC 8.4(c), and RPC 8.4(e), as they are supported by substantial evidence and are not clearly erroneous. But because there is no evidence in the record, much less substantial evidence, demonstrating Novi violated RPC 8.1, we are unable to defer to the panel's finding in that regard. Thus, we agree with the panel's conclusions that the State Bar established by clear and convincing evidence that Novi violated RPC 1.3, RPC 3.2, RPC 3.3, RPC 8.4(c), and RPC 8.4(e), but disagree with the conclusion that Novi violated RPC 8.1.

In determining whether the panel's recommended discipline is appropriate, 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 and mitigating factors." *In re Discipline of Lerner,* 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008). We must ensure that the discipline is sufficient to protect 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) (noting purpose of attorney discipline).

The record supports the panel's decisions that Novi knowingly violated duties owed to his clients (diligence, expediting litigation), the legal system (candor toward the tribunal), the public (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), and the legal profession (misconduct). Novi's misconduct caused injury or potential injury to his clients, the judiciary, and the integrity of the profession. Specifically, one of Novi's clients was harmed because his petition to seal his criminal records was never filed and the majority of the fees he paid Novi were never reimbursed. The panel found and the record supports three aggravating circumstances (pattern of misconduct, multiple offenses, and substantial experience in the practice of law) and one mitigating circumstance (no prior discipline).[2]

Considering all of these factors, we agree that a suspension is warranted. *See* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards,* Standard 4.42 (Am. Bar Ass'n 2017) ("Suspension is generally appropriate when … a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client."); *id.* at Standard 6.12 ("Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court … and 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 proceedings."). Additionally, weighing the aggravating and mitigating circumstances, we conclude that the recommended one-year suspension will serve the purpose of attorney discipline.

Accordingly, we hereby suspend Michael C. Novi from the practice of law in Nevada for one year from the date of this order. As a condition of reinstatement, Novi shall refund Charles Albright $1,440.50 within 30 days of the date of this order. He shall also pay the actual costs of the disciplinary proceedings including $2,500 under SCR 120 within 30 days of the date of this order.

It is so ORDERED.

In Re: JASON A. GORDON
Bar No.: 10598
Case No.: 75057 & 75058
Filed: July 20, 2018

ORDER OF SUSPENSION

These are automatic reviews of two Southern Nevada Disciplinary Board hearing panels' recommendations that attorney Jason A. Gordon be suspended for two six-month-

continued on page 40

continued from page 39

and-one-day terms, to run concurrently, based on one violation each of RPC 1.2 (scope of representation), RPC 1.5 (fees), and RPC 3.2 (expediting litigation) and two violations each of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.16 (declining or terminating representation), RPC 8.1(b) (disciplinary matters), and RPC 8.4 (misconduct).[3] *Because no briefs have been filed, these matters stand submitted for decision based on the records. SCR105(3)(b).*

The facts and charges alleged in the complaints are deemed admitted because Gordon failed to answer the complaints and appear at the hearings.[4] SCR 105(2). The admitted facts establish that Gordon accepted a $500 fee and a $200 filing fee to represent a client in a landlord/tenant matter, failed to stay in contact with the client, and a year later emailed the client apologizing for his lack of contact and for the lack of progress in the case, but failed to refund the client's money. Additionally, Gordon accepted a retainer to represent a client in a criminal matter but failed to communicate with the client and failed to appear at two hearings, which required the court to appoint a public defender to represent the client. Gordon also failed to appear at two hearings for two other clients each, one which resulted in the client being sentenced in accordance with a plea agreement without Gordon's presence, and one which resulted in the appointment of new counsel to represent the client. Further, Gordon failed to respond to the State Bar's lawful requests for information regarding these complaints.

Turning to the appropriate discipline, we review the hearing panel's recommendation de novo. SCR 105(3)(b). Although we "exercise independent judgment," the panel's recommendations are persuasive. *In re Discipline of Schaefer,* 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). 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).

Gordon knowingly or intentionally violated duties owed to his clients (diligence, communication, terminating representation, and expediting litigation) and the profession (fees and failing to respond to lawful requests for information by a disciplinary authority). At least one client suffered an actual injury because his landlord/tenant issue was not resolved and his retainer was never refunded. Gordon's other clients were either injured or potentially injured by his failure to appear on their behalf in court. Gordon's failure to cooperate in the disciplinary investigation harmed the integrity of the profession, which depends on a self-regulating disciplinary system.

Based on the most serious instances of misconduct at issue, *see* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Rules and Standards* 452 (Am. Bar Ass'n 2017) ("The ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations."), the baseline sanction in this case before considering aggravating and mitigating circumstances is either suspension or disbarment. *Compare id.* Standard 4.41 (indicating that disbarment is generally appropriate when "a lawyer abandons the practice and causes serious or potentially serious injury to a client" or "knowingly fails to perform services for a client and causes serious or potentially serious injury to a client" or "engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client"), *with* Standard 4.42 (providing that suspension is appropriate if a lawyer either "knowingly fails to perform services for a client and causes injury or potential injury to a client," or the "lawyer engages in a pattern of neglect and causes injury or potential injury to a client"). The record supports the panel's finding of no aggravating circumstances and one mitigating circumstance (no prior discipline).

Considering all the factors, and because Nevada's disbarment is irrevocable unlike many other states, *see* Brian Finkelstein, *Should Permanent Disbarment be Permanent?,* 20 Geo. J. Legal Ethics 587, 590-91 (2007) (recognizing that the majority of states permit reinstatement after disbarment); *see also, e.g.,* California Rules of Procedure of State Bar, Rule 5.442(B) (allowing an attorney to seek reinstatement from disbarment after a five-year period), we agree with the hearing panel that Gordon's misconduct warrants suspension. We conclude, however, that consecutive suspensions would better serve the purpose of attorney discipline considering that at least two of Gordon's clients were injured, potentially seriously, and others were at least potentially injured by his misconduct; his lack of diligence and communication; and his failure to cooperate in the disciplinary investigation. *See State Bar of Nev. v. Claiborne,* 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (stating that purpose of attorney discipline is to protect the public, the courts, and the legal profession).

We hereby suspend attorney Jason A. Gordon from the practice of law in Nevada for two terms of six months and one day, to be served consecutively, commencing from the date of this order. Additionally, as a condition of reinstatement, he shall pay $700 in restitution to James Downen within 30 days from the date of this order. Gordon also shall pay the costs of both disciplinary proceedings, including $2,500 under SCR 120. The parties shall comply with SCR 115 and 121.1.

It is so ORDERED.

BRET O. WHIPPLE
Bar No.: 6168
Grievance File: Ng14-0546
Filed: July 12, 2018

PUBLIC REPRIMAND

To Bret O. Whipple:

You represented a client in a custody matter in the Family Division of the Second Judicial District Court for the State of Nevada in and for the County of Washoe (the "Lawsuit"). The Lawsuit was initially being handled by your attorney employee, however, you became more actively involved in the case when, on March 4, 2014, you filed a custody related "Motion for Immediate Discontinuation of Visitations and Child Interview and Other Related Matters" (hereinafter referred to as the "Motion"). That Motion contained a number of inaccuracies including:

a. The statement that no relevant order has been produced and no relevant minutes have been filed in the Lawsuit;
b. The statement that you were not noticed of the Case Settlement Conference in the Lawsuit;
c. The statement that you were not provided with the proposed Parenting Plan; and
d. The statement that the other party in the Lawsuit did not inform anyone that he would be exercising his visitation.

Contrary to your assertions, a) an Order regarding the Parenting Plan was issued prior to you filing the Motion, and your client had been served with it and brought it to your office,[5] b) your attorney employee was notified of the Case Settlement Conference when he attended the Case Management Conference and the date was provided to your office in the Case Management Conference Order, and c) the opposing party's counsel had sent correspondence to your office specifically notifying you that her client would be exercising his visitation as

provided in the approved Parenting Plan. On March 6, 2014, Opposing counsel notified you of the inaccuracies in your Motion. You withdrew the Motion to re-review it and revise it if necessary, in light of opposing counsel's representations.

On March 11, 2014, you filed a "Re-noticed Motion" that was substantially similar to the prior Motion and without removing any of the inaccurate assertions. You could have determined the accuracy of the statements made in the Re-noticed Motion by reviewing the February 21, 2014 Order Re: Approval of Memorandum of Agreement; the proposed Parenting Plan; the other parties' Settlement Conference Statement dated February 25, 2014; the JAVS video of a February 28, 2014 hearing; the March 4, 2014 Notice of Compliance with WDCR 9; the Court Minutes which were field [sic] on March 6, 2014; and the opposing counsel's letters of February 27, 2014, March 4, 2014 and March 6, 2014. The client could have also informed you of the details that rendered your statements inaccurate.

Although you participated significantly in the drafting of the Motion and the Re-noticed Motion, you relied on your paralegal to confirm the information in the Motion and did not personally review the file, look at any objective evidence, or speak with the client directly before filing to Re-noticed Motion. Also, neither you, nor your paralegal, checked the court docket to confirm your assertions made in the Re-noticed Motion. This is important because the Minutes of a prior proceeding were filed on March 6, 2014 and those Minutes would have informed you of the inaccuracy of some of your assertions. In addition, had you personally spoken to her, your client could have informed you of her receipt of the Parenting Plan, and her concern from January 2014 that a mistake was made. You would have also been able to personally analyze opposing counsel's correspondence with attachments, instead of relying on your paralegal's interpretation of its contents.

On March 28, 2014, the opposing party filed an Opposition to the Re-noticed Motion. On April 8, 2014, the opposing party submitted the Re-noticed Motion for decision. On April 9, 2014, you filed a Motion to Withdraw as counsel for the client.

On April 13, 2014, the opposing party filed a Motion for Sanctions because of the un-corrected inaccuracies in the Re-noticed Motion. Not until April 23, 2014, did you withdraw the Re-noticed Motion, and you only did that because you were withdrawing as counsel—not because you were acknowledging the inaccuracies in the document.

The Motion for Sanctions was fully briefed and submitted to the Court. A hearing on the Motion for Sanctions was held October 22, 2014. You testified that your statements in the Re-noticed Motion were accurate because you had not personally seen documents or been told particular information. This is not the standard by which attorneys are held regarding notice of information. Your former client was required to testify at that hearing as well. Ultimately, the Court granted the opposing party's Motion for NRCP 11 Sanctions and referred this matter to the State Bar of Nevada.

Pursuant to RPC 1.3 (Diligence), you had a duty to act with reasonable diligence and promptness in representing your client. You knowingly violated RPC 1.3 when you failed to confirm that facts asserted in the Motion and the Re-noticed Motion were accurate. You were less than diligent because you did not review the available Orders and correspondence prior to filing the motions; instead you relied on a paralegal's inaccurate representations about their content and/or existence. The judicial system and the integrity of the profession were injured or potentially injured by your lack of diligence with respect to your representation of your client.

You also knowingly violated RPC 5.3 when you failed to ensure that the conduct of your paralegal, a nonlawyer employee, complied with the Rules of Professional Conduct. You allowed your paralegal to advise your client in the underlying matter and to draft motions without verifying the accuracy of the information asserted therein. The judicial system and the integrity of the profession were injured or potentially injured by your violation of RPC 5.3.

Finally, you knowingly violated RPC 8.4(d) when you filed the Motion and Re-noticed Motion that contained inaccurate statements which could have been corrected had you verified the information with your client and/or the available court records and correspondence prior to filing the motions, or even after opposing counsel pointed out the inaccuracies and referred you to the documentation that supported her assertions. Your conduct, which was prejudicial to the administration of justice, resulted in injury or potential injury to the judicial system and the integrity of the profession.

In light of the foregoing, you are hereby **PUBLICLY REPRIMANDED** and ordered to (i) refund the above-referenced client the $1,500 she paid you in legal fees, (ii) pursuant to SCR 120, pay the State Bar of Nevada $750 plus all costs of mailing and the court reporter, (iii) report this discipline to all other licensing organizations to which you belong if their rules require such reporting, and (iv) participate in four additional hours of Continuing Legal Education regarding legal staff management.

DAVID L. SPECKMAN
Bar No.: 13254
Grievance File: Cr16-1373
Filed: July 13, 2018

PUBLIC REPRIMAND

To David L. Speckman:

On February 28, 2014, your lender secured insurance policy #680-3E62347A through Travelers Indemnity Company ("Travelers") for your commercial property, located at 4145 North Rancho Road, Las Vegas, Nevada. You were not named as an insured.

On or about April 4, 2014, you had the property inspected by your HVAC contractor, who identified that the air conditioning units had been recently vandalized. You contacted your insurance agent, Royle Insurance, to report the loss.

On May 15, 2014, you sent a letter to Travelers stating you reported a loss which occurred in April 2014, to your insurance agent at Royle Insurance ("Royle"), but no action had been taken by Royle to remedy the situation. You claimed that the building you owned was vandalized on or about April 1, 2014, and the air conditioning units were destroyed. You enclosed an invoice from a local contractor for the repairs stating the units would need to be replaced.

Following the contact with Travelers regarding the April 1, 2014 loss, a Royle representative contacted the tenant of your building, Andrew Concepcion ("Concepcion"), who owned On Deck Baseball Academy. Concepcion advised Royle that his business had been without any working air conditioning since at least December 31, 2013, due to a vandalization. Concepcion filed a police report with Las Vegas Metropolitan Police Department on December 31, 2013 concerning the vandalism; the police report was filed two days after

continued on page 42

continued from page 41

Concepcion had been served with an eviction notice by you. Prior to that, Concepcion stated that had been the only working air conditioner and that the other ones had never been repaired to work properly after prior incidents of vandalism. Concepcion also provided communications to Royle from you in which you expressed displeasure with Concepcion for what he had told investigators, namely that he had been without functioning air conditioning since 2011. Concepcion's representation that he had been without air conditioning since 2011 was in fact false.

Documentation confirmed that your Colony insurance policy lapsed on December 23, 2013 for failure to pay premiums, and that while you had attempted to send payment to reinstate the policy, Colony denied reinstatement on January 3, 2014. Although Colony negotiated your check to reinstate the policy and sent notice to your home address that the reinstatement was denied, you were not actually made aware that the Colony insurance policy had not been reinstated until late February 2014, when you were notified that a new insurance policy had been purchased through Travelers effective February 28, 2014.

On June 23, 2014, Travelers denied the claim outlined in your May 15, 2014 letter as Travelers determined that the loss occurred outside the policy period.

On November 25, 2015, the Nevada Attorney General filed a Criminal Complaint, charging you with one count of Insurance Fraud (NRS 686.A.281 to 686A.295, inclusive-Category D Felony) and one count of Attempt [sic] Theft (NRS 205.0821 to 205.0835, inclusive-Category C Felony).

On October 11, 2016, the Attorney General amended the Complaint to dismiss the two felony counts and added a single count of Disorderly Conduct, a misdemeanor, to which you entered a plea of *nolo contendere*. You received a suspended jail sentence of six (6) months, 100 hours of community service and fees and restitution in the amount of $4,400.

On November 4, 2016, you self-reported your conviction to the State Bar pursuant to Supreme Court Rule ("SCR") 111. Thereafter, the State Bar filed a petition reporting the conviction with the Nevada Supreme Court. The Supreme Court declined to immediately suspend you because the conviction did not fall under the category of "serious crime" as defined in SCR 111(6), but noted the conduct could potentially support a violation of RPC 8.4(b) and/or RPC 8.4(c) and referred the matter to the Southern Nevada Disciplinary Board.

In light of the foregoing, you violated Rule of Professional Conduct ("RPC) 8.4(b) (Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects) and are hereby **PUBLICLY REPRIMANDED**.

KARLIE M. GABOUR
Bar No.: 13123
Grievance File: Obc17-1069
Filed: June 18, 2018

PUBLIC REPRIMAND

To Karlie M. Gabour:

Violation of RPC 8.4 (Misconduct)

On April 6, 2017, you were suspended from the practice of law by the Nevada Board of Continuing Legal Education ("CLE Board") for failure to comply with mandatory continuing legal education requirements and for failure to pay the annual, extension and/or late fee.

In early August, 2017, you were employed by Adam Kutner & Associates and you initiated efforts to remedy the administrative suspension. On August 9, 2017, you emailed to the CLE Board a reinstatement application. The application included CLE credits that you represented you had taken in 2016 and 2017 to be reinstated from CLE Suspension to Active Status. Within those credits were two CLE Verifying Attendance Declaration forms alleging attendance at two live programs totaling 9.5 hours. The CLE Board does not accept affidavits for live programs. Therefore, the CLE office checked the attendance from both programs and you did not appear on the list of attendees. When you were informed that your name did not appear on either attendance list, you told the CLE office that you spoke on a panel at one of the programs and that is why your name was not on the attendance list. The provider of the CLE programs, Nevada Justice Association, informed the CLE office that you were not in attendance as a speaker, or a registered attendee for the program. The CLE Board rejected your application for reinstatement and forwarded the matter to the State Bar for investigation.

Prior to your efforts to be reinstated, you had an email from the Executive Director at the CLE Board indicating that the matter had been resolved, but, she did not compose, authorize or send the email letter. Further, you knew that you had not performed the necessary procedures to be reinstated at that time. Although not the basis for this discipline, the Panel is concerned about the fraudulent email and cautions you that any future allegations of fraudulent documentation will take this into consideration.

On October 23, 2017, you were ultimately reinstated after submitting new CLE credits, that were verified by the CLE office. You had left the employ of Adam Kutner & Associates at that point in time as well.

RPC 8.4 (Misconduct) states in pertinent part "[i]t is professional misconduct for a lawyer to: … (c) [e]ngage in conduct involving dishonesty, fraud, deceit or misrepresentation." You admit that you made misrepresentations to the CLE Board regarding your attendance at 9.5 hours of CLE classes.

Violation of SCR 79 and RPC 8.1

On August 14, 2017, The State Bar mailed you a letter of investigation, via certified mail, [sic] your SCR 79 address, which was the office address for Adam Kutner & Associates, and an alternate address that you previously provided to the State Bar. Both letters were accepted by an unknown person, but the State Bar received no response from you.

In late August, 2017 you left the offices of Adam Kutner & Associates but did not update your SCR 79 address until December, 2017. In the Fall of 2017, you stopped residing at your alternately identified address. Therefore, multiple additional correspondence [sic], including pleadings in this discipline matter, that were sent to your SCR 79 address and your alternate address were returned to the State Bar. In December, 2017, you updated your SCR 79 address with a potential employer's address, but you were not hired by that employer and thus mail sent to that office was returned to the State Bar as well. You did not update your SCR 79 address, or alternate address, again until the eve of the hearing in this discipline matter.

The State Bar never received a response from you regarding the grievance or the allegations in the Complaint

that was ultimately filed. This resulted in a Default being entered against you in the discipline proceeding.

In light of the foregoing, you violated SCR 79 (Disclosures by Members of the Bar) and RPC 8.1 (Bar Admission and Disciplinary Matters). Your violation impeded the efficiently [sic] of the disciplinary process.

Discipline

Although these offenses might warrant the discipline of a suspension, the Panel has considered your ultimate acceptance of responsibility for your misrepresentation to the CLE Board, your failure to keep the State Bar informed of your address, and your failure to properly respond to the State Bar's inquiries in this disciplinary proceeding. The Panel has also considered the mitigating factors of your inexperience in the practice of law and the personal and emotional problems that you detailed in the hearing in this matter and the efforts that you have made to address those issues so as to prevent them from leading to similar issues in the future. The Panel finds that these mitigating factors warrant a downward deviation from the proscribed sanction of a suspension.

Therefore, you have violated RPC 8.4 (Misconduct), SCR 79 (Disclosures by Members of the Bar), and RPC 8.1 (Bar Admission and Disciplinary Matters) and are hereby **PUBLICLY REPRIMANDED.**

CLAY TREESE
Bar No.: 9923
Grievance File: Obc17-0838
Filed: June 6, 2018

LETTER OF REPRIMAND

To Clay Treese:

A Screening Panel of the Southern Nevada Disciplinary Board (the "Panel") convened on May 22, 2018, to consider the above-referenced grievance against you. The Panel concluded that you violated the Rules of Professional Conduct ("RPC"), and that you should be reprimanded. This letter constitutes delivery of that reprimand.

Richard Saucedo Alonso ("Saucedo") was in a motor vehicle accident on June 21, 2014. He was rear-ended by another driver who was intoxicated at the time of the accident, fled the scene, and was later apprehended by the police. There were several other people Involved in the accident who were also pursuing a claim against the policy, including a woman and a minor represented by another attorney.

Saucedo retained you on June 24, 2014 to pursue a personal injury case against the driver of the car. Saucedo [sic] medical treatment costs were $4,934.00. At the end of his course of treatment, Treese's office collected Saucedo's medical records and prepared a demand to the insurance company.

You sent a demand package to the insurance company sometime in March 2015. On April 22, 2015, you received an offer of $2,200 for settlement from the insurance company. The offer was rejected.

On April 28, 2016, you received a letter from counsel for the defense suggesting a potential global settlement in exchange for a tender of the total policy limits of $30,000 to be shared all of the claimants. A final deal was not reached.

You failed to file a Complaint prior to the expiration of the statute of limitations which barred Saucedo's claim and left him with no portion of the limited insurance policy proceeds. When you realized what had happened, you paid Saucedo's medical bills. In addition you paid Saucedo $1,500, as a resolution to compensate the client for funds that he would have been eligible to receive had you complied with the statute of limitations.

Saucedo indicated that the majority of his communications with your office were with your legal assistant.

Based on the foregoing you are hereby **REPRIMANDED** for violation of RPC 1.3 (Diligence), RPC 1.4 (Communication) and RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants). 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.

1. In exchange for Fried's guilty plea, the State Bar agreed to dismiss the remaining three counts in the complaint.
2. While there were indications that Novi suffered from a physical or mental condition, the panel found that there was insufficient evidence to establish any particular mitigating circumstance in that regard. If Novi seeks reinstatement, the reinstatement panel may wish to consider evidence that any such condition has been addressed.
3. Gordon is currently administratively suspended for failing to complete continuing legal education requirements, comply with State Bar reporting requirements, and pay State Bar dues.
4. The State Bar sent the bar complaints, the notices of intent to take a default, scheduling notices, and other documents to Gordon through regular and certified mail at his SCR 79 address as well as through email. Gordon was also personally served with a copy of the complaint and notice of intent to take a default, as well as other documents, in Docket No. 75057, and with the notices of the formal hearings in both dockets.
5. Your client brought the Parenting Plan to the paralegal and expressed concern about its contents. Your paralegal told her not to worry about it because your office had not yet been served with the document. The paralegal did not notify you of the client's concerns either so that you could make sure that they were timely addressed.

TIPS FROM THE OFFICE OF BAR COUNSEL

CLIENT'S MONEY VS. LAWYER'S MONEY: The Duty to Safekeep

In law school, the Rules of Professional Conduct (RPC) probably seemed pretty straightforward and really just like a codification of common sense. Now that you are out in practice, those rules may seem a little less straightforward in their application. One such issue may be the application of RPC 1.15 (Safekeeping Property), specifically the commingling of client funds with other funds. This issue continues to come up in disciplinary proceedings, many times due to a lawyer being unable to identify to whom certain funds belong, due to improper record keeping. The purpose of a lawyer's trust account is to protect client funds, since such funds do not belong to anyone other than the client or a third party. Even while there may appear to be no actual harm done when a client's funds are commingled with a lawyer's funds, there is always the potential for harm, as the client's funds may become improperly subject to attachment by the lawyer's creditors, thereby defeating the purpose of the trust account. To avoid this problem and comply with your obligations under the RPC, be diligent in understanding and documenting whose funds are whose and ensuring that those funds are held in the correct accounts.