

In Re: THOMAS C. COOK

Bar No.: 5266

Case No.: 72015

Filed: June 13, 2017

ORDER OF SUSPENSION

Attorney suspended for 30 days following admission of violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees) and RPC 8.1 (bar admission and disciplinary matters).

A Southern Nevada Disciplinary Board hearing panel recommended the Nevada Supreme Court approve a conditional guilty plea agreement with attorney Thomas Cook.

As part of the agreement, Cook admitted that he negligently violated RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees) and RPC 8.1 (bar admission and disciplinary matters) for failing to adequately represent a client in a justice court action. Cook agreed to a 30-day suspension, to pay \$2,642.81 in restitution to his client, and to pay SCR 120(1) fees in the amount of \$2,500 and \$367.45 for the actual costs of the disciplinary proceeding.

In reviewing the record, the court found the guilty plea agreement should be approved. Cook negligently failed to perform services for a client and engaged in a pattern of neglect that caused injury or potential injury to a client. The record supported three aggravating circumstances (prior disciplinary offenses, a pattern of misconduct and substantial experience in the practice of the law) and two mitigating circumstances (absence of a dishonest or selfish motive and personal or emotional problems).

Considering all of these circumstances, the agreed-upon discipline was deemed sufficient to serve the purpose of attorney discipline—to protect the public, the courts and the legal profession.

The court therefore suspended attorney Thomas C. Cook from the practice of law in Nevada for a period of 30 days, commencing from the date of this order. Cook shall also pay \$2,642.81 in restitution to his client as required by the conditional plea agreement. Lastly, Cook shall pay SCR 120(1) fees in the amount of \$2,500 and \$367.45 for the actual costs of the disciplinary proceeding.

In Re: EASTON K. HARRIS

Bar No.: 10611

Case No.: 71636

Filed: June 13, 2017

ORDER OF DISBARMENT

Attorney disbarred for violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.8 (conflicts of interest: current clients: specific rules), RPC 1.15 (safekeeping property), RPC 3.2 (expediting litigation), RPC 3.3 (candor towards tribunal), RPC 3.4 (fairness to opposing party and counsel), RPC 4.1 (truthfulness in statements to others), RPC 8.1(b) (bar admission and disciplinary matters) and RPC 8.4 (misconduct).

A Southern Nevada Disciplinary Board hearing panel recommended that the Nevada Supreme Court disbar attorney Easton K. Harris, following findings of violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.8 (conflicts of interest: current clients: specific rules), RPC 1.15 (safekeeping property), RPC 3.2 (expediting litigation), RPC 3.3 (candor towards tribunal), RPC 3.4 (fairness to opposing party and counsel), RPC 4.1 (truthfulness in statements to others), RPC 8.1(b) (bar admission and disciplinary matters) and RPC 8.4 (misconduct), as well as require him to pay restitution in the amount of \$428,913.15 to his clients, a fine in the amount of \$50,000 to the state bar Clients' Security Fund and the costs of the disciplinary proceedings in the amount of \$3,000.

A complaint charged that Harris had committed 116 violations of the Rules of Professional Conduct with respect to 23 clients over a period of several years. The facts and charges alleged in the complaint were deemed admitted because Harris failed to answer the complaint and a default was entered. The record therefore established that Harris violated the above-referenced rules by charging and retaining fees without performing the work he was retained to do, failing to disburse funds held in trust for clients, failing to safekeep client funds and converting those funds for his own use, failing to adequately communicate with his clients and misrepresenting the status of their cases, making false statements to the court and to opposing parties, failing to respond to motions and discovery orders and appear at hearings, soliciting improper loans from clients and failing to repay those loans, fraudulently obtaining money from investors and failing to respond to the lawful demands by the state bar in regard to grievances filed by the complaining clients. Notably, the state bar sent dozens of investigative inquiries by certified and regular mail to Harris's SCR 79 address, to the address of his counsel of record and to other addresses where he might be located, yet Harris did not respond to those inquiries. (The record reflects that Harris was aware of the disciplinary investigation, as he retained counsel to defend himself after receiving the first ten grievances. The state bar informed Harris's counsel of its intent to seek disbarment, and counsel later withdrew due to Harris's lack of communication).

The court found that Harris violated duties owed to his clients, the legal system and the legal profession. The conduct alleged in the complaint appears to have been intentional or knowing. His conduct resulted in serious harm to many of the clients he deprived of thousands of dollars to which they were entitled, and his failure to appear at hearings and file necessary pleadings harmed his clients' cases and caused judgments and awards of attorney fees to be entered against many of them. His conduct also caused injury to the legal system and to the legal profession, which relies on the self-regulating disciplinary system.

The baseline sanction for his misconduct, before consideration of aggravating and mitigating circumstances, is disbarment. The hearing panel found only one mitigating circumstance: no prior disciplinary record. The court agreed with the hearing panel that this single mitigating circumstance does not warrant discipline less than disbarment, particularly considering the numerous aggravating circumstances found by the panel (dishonest

or selfish motive, a pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders, vulnerability of the victims and indifference to making restitution. While disbarment in Nevada is irrevocable, the court noted Harris's egregious misconduct and his demonstrated indifference to the disciplinary proceedings indicate that disbarment is necessary in this instance to protect the public, the courts and the legal profession.

The court, therefore, disbarred attorney Easton K. Harris from the practice of law in Nevada. Such disbarment is irrevocable. Harris is required to pay a fine in the amount of \$50,000 to the state bar Clients' Security Fund and pay restitution in full to his clients. Harris shall also pay the costs of the disciplinary proceedings in the amount of \$3,000 within 30 days.

In Re: KRISTOPHER M. MILICEVIC
Bar No.: 12447
Case Nos.: 71578 and 72696
Filed: June 13, 2017

ORDER OF SUSPENSION

Attorney suspended three years in one matter and one year in another, with the suspensions to run concurrently based on violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.16 (declining or terminating representation), RPC 1.5 (fees), RPC 8.1(d) (bar admission and disciplinary matters) and RPC 8.4 (misconduct).

Two Southern Nevada Disciplinary Board hearing panels recommended the suspension of attorney Kristopher Milicevic in two separate matters. Briefs were not submitted in either matter.

In the first matter, the hearing panel recommended that the court suspend Milicevic for three years based on violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.16 (declining or terminating representation), RPC 1.5 (fees), RPC 8.1(d) (bar admission and disciplinary matters) and RPC 8.4 (misconduct).

In this matter, the facts and charges alleged in the complaint are deemed admitted, because Milicevic failed to answer the complaint and a default was entered. The record therefore established that Milicevic violated the above-referenced rules by failing to adequately communicate with the complaining clients, to file a timely appeal of the denial of a client's worker's compensation benefits and to terminate his representation of a client. Additionally, Milicevic did not cooperate with the disciplinary investigation because he failed to respond to the state bar's letters, sent via certified mail, the voicemail messages left on his answering service or his cell phone, and the message the state bar left with his father after he had abandoned his practice.

The court found that Milicevic violated duties owed to his clients (diligence, communication and declining or terminating representation) and the profession (fees and failing to respond to a lawful request for information from a disciplinary authority). The conduct alleged in the complaint appeared to have been intentional or negligent. Milicevic's abandonment of his practice injured one of his clients, because the time for appealing the denial of her worker's compensation benefits lapsed while he was representing her. Milicevic's failure to cooperate in the disciplinary investigation harmed the integrity of the profession,

which depends on a self-regulating disciplinary system. The panel found three aggravating circumstances (obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders, refusal to acknowledge the wrongful nature of conduct and indifference to making restitution) and two mitigating circumstances (absence of prior disciplinary record and absence of dishonest or selfish-motive).

The court agreed that a suspension is warranted, particularly because Milicevic has had no prior disciplinary offenses and there is an absence of dishonest or selfish motive. The court also agreed that the recommended suspension of three years is sufficient to serve the purpose of attorney discipline to protect the public, the courts and the legal profession.

In the second matter, a separate Southern Nevada Disciplinary Board hearing panel asked the court to approve a conditional guilty plea from Milicevic in exchange for the stated form of discipline of a one-year suspension to run concurrently with the suspension in Docket No. 71578 and the imposition of conditions on Milicevic's reinstatement for his admitted violations of RPC 1.4 (communication).

Because Milicevic admitted to the facts and charges alleged in the complaint, the record establishes that Milicevic violated RPC 1.4 by failing to adequately communicate with the complaining clients. Thus, Milicevic has violated a duty owed to his clients (communication). The conduct alleged in the complaint appears to have been intentional or negligent. The panel found one aggravating circumstance (multiple offenses) and four mitigating circumstances (absence of dishonest or selfish motive, personal or emotional problems, timely good faith efforts to make restitution or rectify consequences of misconduct and remorse).

Considering the duties violated and the aggravating and mitigating circumstances, the court concluded that a one-year suspension, to run concurrently with the three-year suspension imposed in Docket No. 71578, and the conditions imposed on Milicevic's reinstatement are sufficient to serve the purpose of attorney discipline. Thus, the conditional guilty plea agreement was approved.

The court suspended attorney Kristopher M. Milicevic from the practice of law in Nevada for a period of three years commencing from the date of Docket No. 71578. In Docket No. 72696, the court suspended Milicevic for a period of one year to run concurrently with the suspension imposed in Docket No. 71578. Additionally, Milicevic was required to submit the issue of his fees charged in Docket No. 72696 to binding fee dispute arbitration. Further, upon reinstatement, Milicevic will be required to:

1. Obtain a mentor approved by the state bar to review his practice, to ensure that he does not abandon his clients in the future;
2. Either work in a law firm under the supervision of another attorney or ensure that he has sufficient staff to prevent him from being overwhelmed by his practice; and
3. Continue mental health counseling at the recommendation of his treating mental health professional.

Milicevic shall pay the costs of the disciplinary proceedings, plus fees in the amount of \$2,500, in both Docket No. 71578 and Docket No. 72696 within 30 days.

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In Re: SEAN L. BROHAWN
Bar No.: 7618
Case No.: 72510
Filed: June 13, 2017

ORDER OF SUSPENSION

Attorney suspended six months and one day following admissions of violating RPC 1.3 (diligence), RPC 1.8(a) (conflict of interest: current clients: specific rules), RPC 1.15 (safekeeping of property), RPC 5.5 (unauthorized practice of law), RPC 8.1(b) (bar admissions and disciplinary matters) and RPC 8.4(d) (misconduct prejudicial to the administration of justice). The final two months and one day are stayed, subject to attorney's adherence to terms of probation.

A Northern Nevada Disciplinary Board hearing panel recommended the court accept a conditional guilty plea agreement on behalf of attorney Sean Brohawn.

This disciplinary matter arose when two clients hired Brohawn to pursue a civil action. The clients paid Brohawn a retainer and made a \$7,000 loan against which Brohawn would bill for work he performed, but the funds were not deposited into a client trust account and the loan agreement was not memorialized in writing, nor were the clients advised to obtain independent counsel. Thereafter, Brohawn did not perform certain work required by the case. In the meantime, Brohawn had been suspended for non-compliance with his CLE requirements, but did not advise the clients of the suspension. Once the clients terminated Brohawn's services, he did not return \$4,935 in unearned funds. Further, Brohawn did not respond to the clients' grievance or the state bar's disciplinary complaint until after a notice of intent to default had been served.

Under the conditional guilty plea agreement, Brohawn admitted to violating RPC 1.3 (diligence), RPC 1.8(a) (conflict of interest: current clients: specific rules), RPC 1.15 (safekeeping of property), RPC 5.5 (unauthorized practice of law), RPC 8.1(b) (bar admissions and disciplinary matters) and RPC 8.4(d) (misconduct prejudicial to the administration of justice). The agreement provides for a six-month-and-one-day suspension, with the last two months and one day stayed on the following conditions:

Brohawn must meet regularly with a designated mental health provider and an approved mentor, and provide monthly reports to the state bar, repay the clients \$4,935, pay the costs of the disciplinary proceedings and not engage in any further conduct that results in discipline. Additionally, Brohawn's mental health provider and mentor must each provide a report to the state bar on the 90th day of the actual suspension term opining as to his fitness to return to the practice of law; a failure to report or an adverse finding will be deemed a violation of probation. If Brohawn fails to comply with any of these probationary terms, the remainder of the suspension will be imposed.

The court found that the record demonstrated that Brohawn knowingly committed the violations, and that the clients were injured by a delay in the resolution of their case and the failure to protect their retainer funds. The record supports two aggravating circumstances (substantial experience in the practice of law and engaging

in conduct involving a selfish motive) and three mitigating factors (no prior disciplinary history, personal problems and remorse). The length of the suspension, along with the probationary terms, are tailored to address the circumstances that led to the violations and are sufficient to serve the purpose of attorney discipline in this case.

The court suspended Brohawn from the practice of law for six months and one day commencing from the date of the order. The last two months and one day of that term shall be stayed pending Brohawn's compliance with the following terms:

1. Brohawn must meet with a designated mental health provider to address the underlying issues that contributed to his violations and submit to the state bar monthly reports co-signed or affirmed by the provider;
2. Brohawn must meet bi-weekly with an approved mentor under SCR 105.5, to discuss caseload management, calendaring and billing, and to review his IOLTA trust account statements, and submit to the state bar monthly reports co-signed or affirmed by the mentor;
3. Brohawn must repay the clients \$4,935 and provide proof of payment to bar counsel within 120 days of the date of the order;
4. Brohawn must pay \$2,500 as costs of the disciplinary proceeding plus the court reporter or transcript fees within 120 days from the date of the order;
5. Brohawn must not engage in any conduct that results in discipline by a screening panel or the filing of a complaint by the state bar; and
6. Brohawn's mental health provider and mentor must each provide a report to the state bar on the 90th day of the actual suspension term, opining as to his fitness to return to the practice of law; a failure to report or an adverse finding will be deemed a violation of probation.

If Brohawn fails to comply with any of these probationary terms during the stayed portion of the suspension, the remainder of the suspension will be imposed, and Brohawn will have to apply for reinstatement under SCR 116.

In Re: BRIAN C. KELLY
Bar No.: 1993
Case No.: OBC16-0742
Filed: June 13, 2017

LETTER OF REPRIMAND

To Brian C. Kelly:

"You were an attorney at the Hardy Law Group in August 2011, when a client retained you on a contingency-fee basis for representation in claims related to his deceased mother's trust. The agreed-upon fee was 25 percent of the gross recovery, compromise or settlement collected for the client, if the claims were settled at least 30 days prior to the hearing and thereafter, 30 percent of the recovery. An attorney's lien was filed in the probate matter on June 12, 2012. It identified that the Hardy Law Group

was entitled to 30 percent of the proceeds from the estate matter, which was anticipated to include a promissory note that the trust held after selling a piece of real property that it had owned.

Rather than recording the lien on the real property, on July 24, 2012, you recorded an Assignment of Note and Deed of Trust, assigning an undivided interest in the proceeds of the promissory note to Hardy Law Group, with the Washoe County Recorder.

You did not advise the client, in writing, of the desirability of seeking the advice of independent legal counsel before assigning an ongoing interest in his property to the Hardy Law Group. The client did not sign any documents indicating that he was giving informed consent to the transaction.

On April 9, 2013, you recorded an Assignment and Clarification of Interests in Note and Deed of Trust, which divided the total interest in the note as follows: 71.8 percent to the client, 14.1 percent to you, personally, and 14.1 percent to Del Hardy, personally. On the same day, you also recorded a Deed in Lieu of Foreclosure that returned the mortgaged real property back to the client, with you and Hardy having undivided property interests in the real property.

Again, the client was not advised, in writing, of the desirability of seeking the advice of independent legal counsel before assigning an ongoing interest in his property to you and Hardy personally. The client did not sign any documents indicating that he was giving informed consent to the transaction. RPC 1.8 states:

- a. A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:
 1. The transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing, in a manner that can be reasonably understood by the client;
 2. The client is advised in writing of the desirability of seeking, and is given a reasonable opportunity to seek, the advice of independent legal counsel on the transaction; and
 3. The client gives informed consent, in writing and signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

You are imputed with the knowledge of the requirements of RPC 1.8 (conflict of interest: current clients: specific rules), and you violated the rule because you failed to inform your client in writing about the terms of the transaction, the nature of the ownership interest that you and Hardy were acquiring, and that it was desirable for him to seek the advice of independent legal counsel. Although the transfer of interest to the Hardy Law Group, and later to you and Hardy personally, does not appear to be unfair or unreasonable, the client was minimally injured by your violation of RPC 1.8 (conflict of interest: current clients: specific rules) because he was not afforded the opportunity to be fully informed and independently advised regarding the consequences of the undivided ownership in

the real property. The integrity of the legal profession is injured by a violation of RPC 1.8 (conflict of interest: current clients: specific rules), because the client was not properly informed, and written consent was not obtained prior to your gaining an undivided ownership interest in the real property.

The panel has considered the available aggravating and mitigating factors and determined that they do not warrant a deviation from the sanction as set forth herein. In light of the foregoing, you violated Rule of Professional Conduct 1.8 (conflict of interest: current clients: specific rules), and are hereby **REPRIMANDED** and required to pay costs in the amount of \$1,500 plus the hard costs of this proceeding."

TIPS FROM THE OFFICE OF BAR COUNSEL



The opposing party inadvertently included me in an email to his attorney. He clicked "reply all" to the email stream between his attorney and I, and his comments are essentially the "smoking gun" that our side needs. Do I have to inform his attorney now, or can I spring this information on them later?

You must immediately notify opposing counsel. Rule of Professional Conduct 4.4 (Respect for Rights of Third Persons) requires prompt notification when an attorney receives a document that was obviously sent to him/her by mistake. However, RPC 4.4 does not prohibit the recipient from using the document to the client's advantage.