

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
JAMES R. ROSENBERGER, ESQ.

No. 48308

FILED

MAR 05 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF PUBLIC REPRIMAND

This is an automatic appeal from a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney James R. Rosenberger be (1) ordered to pay an outstanding attorney fee award of \$5,340.00, previously awarded by this court, within thirty days of our order in this matter, (2) assessed the costs of the disciplinary proceedings, and (3) publicly reprimanded based on the panel's conclusion that Rosenberger violated SCR 153 (diligence) and SCR 173 (fairness to opposing party and counsel).¹ Rosenberger did not file a brief, and so this matter has been submitted for decision on the record.²

¹The Rules of Professional Conduct were amended and renumbered effective May 1, 2006; the current rules are RPC 1.3 and RPC 3.4. and they remain the same in substance. The former version of the rules applies to this case.

²See SCR 105(3)(c).

Effective Date: March 2007
Bar Number: 1047

As we recognized in In re Stuhff, “[t]hough persuasive, the [panel’s] findings and recommendations are not binding on this court. This court must review the record de novo and exercise its independent judgment to determine whether and what type of discipline is warranted.”³ The panel’s findings must be supported by clear and convincing evidence.⁴

Supreme Court Rule 153 states that “[a] lawyer shall act with reasonable diligence and promptness in representing a client.” Further, Supreme Court Rule 173(3) states that, in fairness to an opposing party and counsel, a lawyer shall not “[k]nowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.”

The record on appeal demonstrates that Rosenberger continuously ignored this court’s repeated orders, failed to file required documents, and failed to pay assessed fines and the attorney fee award for over three years. At the disciplinary hearing, Rosenberger admitted his inaction and failure to comply. However, Rosenberger noted that as his client elected not to pursue the appeal for financial reasons, the client was not harmed; thus, Rosenberger’s lack of diligence consisted of failing to properly move to voluntarily dismiss the appeal or to move for withdrawal from the representation.


³108 Nev. 629, 633, 837 P.2d 853, 855 (1992).


⁴In re Drakulich, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

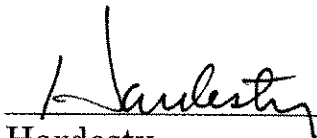
Having reviewed the record, we conclude that the violations found by the panel are supported by clear and convincing evidence and that the panel's recommended discipline is appropriate.

Accordingly, we approve the panel's recommendation in its entirety, and we hereby publicly reprimand Rosenberger. Rosenberger shall have thirty days from the date of this order within which to pay the attorney fee award and the disciplinary proceeding's costs.


It is so ORDERED.⁵



_____, C. J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Saitta

cc: Howard Miller, Chair, Southern Nevada Disciplinary Board
David A. Clark, Acting Bar Counsel
Kimberly K. Farmer, Executive Director
Cremen Law Offices

⁵This is our final disposition of this matter. Any further proceedings concerning Rosenberger shall be filed under a new docket number.