

# DISCIPLINARY QUARTERLY REPORT

Reporting Period: April 1, 2011 – June 30, 2011

*REPORT BY DISCIPLINARY COUNSEL*

## Final Decisions

Final Decisions of the NM Supreme Court .....4

*Matter of Rita Neumann, Esq.* (Disciplinary No. 03-2010-590) New Mexico Supreme Court entered an order of Definite Suspension for a period of six months with automatic reinstatement. Respondent was further ordered to pay costs.

*Matter of Gany Mike Bello, Esq.* (Disciplinary No. 05-2008-545) New Mexico Supreme Court entered an order of Indefinite Suspension. Respondent was further ordered to take and pass the Multi-State Professional Responsibility Examination and have scores reported to the New Mexico Board of Bar Examiners, and have a Character and Fitness Evaluation completed prior to reinstatement.

*Matter of Dennis W. Montoya, Esq.* (Disciplinary No. 07-2010-599 and 02-2011-610) New Mexico Supreme Court entered an order of Indefinite Suspension from the practice of law for a period of time no less than one (1) year. Respondent was ordered to restrain from providing legal services in connection with cases, in which, any of his present or former clients were involved; not to work in, out, or for the same office where his clients have their cases handled; Respondent may provide paralegal services but must have any attorney that he is providing paralegal services notify the office of disciplinary counsel. Respondent shall not act as an independent contractor or provide any paralegal services that are not performed pursuant to the retention by and under the direct supervision of a lawyer approved by the Supreme Court. Respondent may apply for reinstatement and if granted, Respondent shall be placed on supervised probation for three (3) years and shall submit to and bear the expense of an audit of his trust account, conducted at time and by auditors selected or approved by disciplinary counsel.

*Matter of Rene Ostrochovsky, Esq.* (Disciplinary No. 11-2010-607) New Mexico Supreme Court entered an order of Indefinite Suspension for a period of no less than one (1) year. Respondent was ordered to pay costs. It was further ordered that prior to the filing of any petition for reinstatement Respondent shall successfully complete a Character and Fitness Evaluation by the New Mexico Board of Bar Examiners; shall satisfy the continuing legal education requirements during the period of suspension; shall take and pass with a score of 86 the multi-state professional responsibility examination; and upon reinstatement shall be placed on supervised probation for a period of one (1) year.

**Resignations in Lieu of Discipline .....1**

*Matter of John M. Burnett, Jr., Esq.* (Disciplinary No. 03-2011-612) New Mexico Supreme Court entered an order approving the petition for resignation in lieu of discipline. Respondent was Ordered to pay any documented unpaid subrogation or medical liens, pay the Client Protection Fund any amounts the Fund may have paid based on claims, make restitution to an Estate, and have his IOLTA account audited by an independent Certified Public Accountant and pay any amounts determined by the Certified Public Accountant to be owed by Respondent to any client or third party not previously identified. Respondent shall not apply for reinstatement earlier than three (3) years and shall take and pass the Multi-State Professional Responsibility Examination prior to reinstatement.

**Summary Suspensions**

Total number of attorneys summarily suspended .....0

**Disability Suspensions**

Total number of attorneys placed on disability suspension ....0

**Charges Filed**

Charges were filed against an attorney for allegations of general misrepresentation; failure to act with reasonable diligence in representing a client; failure to promptly inform the client of any decisions made with respect to the client’s informed consent; failure to consult with the client; failure to exercise independent professional judgment and render candid advice; knowingly making a false statement of fact to the client; engaging in conduct which is prejudicial to the administration of justice; and knowingly stating or implying an ability to improperly influence a judge.

Charges were filed against an attorney for allegations of general misrepresentation; failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions; failure to take protective action when the client was of diminished capacity; intentionally stating, in disciplinary proceedings, bias and prejudice based on gender; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and engaging in conduct which is prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of engaging or assisting the client in conduct that misleads the tribunal; knowingly disobeying an obligation under the rules of the tribunal; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and engaging in conduct which is prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of failure to maintain an attorney trust account and allowing account to be overdrawn and failure to give full cooperation and

assistance to the disciplinary board and disciplinary counsel in discharging the lawyer's respective functions and duties with respect to discipline and disciplinary procedures.

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Charges were filed against an attorney for allegations of failure to act with reasonable diligence and promptness in representing a client; failure to keep clients reasonably informed; failure to comply with requests for information; failure to charge a reasonable fee; failure to withdraw representation after being discharged by client; failure to take steps for the orderly termination of representation from client; and failure to give full cooperation and assistance to the disciplinary board and disciplinary counsel in discharging the lawyer's respective functions and duties with respect to discipline and disciplinary procedures.

Charges were filed against an attorney for allegations of failure to provide competent representation to a client; failure to act with reasonable diligence and promptness in representing a client; failure to promptly comply with reasonable requests for information; failure to keep the client reasonably informed about the status of the matter; knowingly disobeying an obligation under the rules of a tribunal; knowingly violating the Rules of Professional Conduct; and engaging in conduct which is prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of knowingly using means that have no substantial purpose other than to embarrass a third person; knowingly making a statement with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge and/or public legal officer; knowingly violating the Rules of Professional Conduct; engaging in conduct that involves dishonesty, fraud, deceit or misrepresentation; and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of knowingly making an agreement for, charging or collecting an unreasonable fee or an unreasonable amount for expenses.

**Petitions for Reciprocal Discipline Filed**

Petitions for reciprocal discipline filed .....0

**Petitions for Reinstatement Filed**

Petitions for reinstatement filed .....0

**Formal Reprimands**

Total number of attorneys formally reprimanded .....0

## Informal Admonitions

Total number of attorneys admonished .....2

An attorney was informally admonished for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation by signing a third party's name on a document and having a paralegal notarize those documents without proper legal authority to do so in violation of Rule 16-804 (C) of the Rules of Professional Conduct.

An attorney was informally admonished following a period of probation for failure to properly maintain an attorney trust account and failing to maintain accurate records in violation of Rules 16-115 and 17-204 of the Rules of Professional Conduct.

## Letters of Caution

Total number of attorneys cautioned .....11

Attorneys were cautioned for the following conduct: (1) general neglect (3 letters of caution issued); (2) failure to act with reasonable diligence and promptness; (3) failure to communicate; (4) conflict of interest; (5) general incompetence (2 letters of caution issued); (6) libel/slander; (7) general misrepresentation to Court; (8) overreaching excessive fees; (9) accounting for funds; and (10) failure to file.

## Complaints Received

<i>Allegations</i>	<i>No. of Complaints</i>
Trust Account Violations.....	5
Conflict of Interest.....	1
Neglect and/or Incompetence.....	60
Misrepresentation or Fraud.....	15
Relationship with Client or Court.....	14
Fees.....	18
Improper Communications.....	8
Criminal Activity.....	0
Personal Behavior.....	6
Other.....	27
Total number of complaints received.....	154