

DISCIPLINARY QUARTERLY REPORT

Reporting Period: July 1, 2014 – September 30, 2014

REPORT BY DISCIPLINARY COUNSEL

Final Decisions

Final Decisions of the NM Supreme Court2

Matter of Alain Jackson, Esq. (Disciplinary Nos. 11-2011-436 and 11-2013-681)
New Mexico Supreme Court entered an order indefinitely suspending Respondent from the practice of law for no less than one (1) year effective immediately for general neglect on a matter and for violation of his probation which was imposed Disciplinary No. 11-2011-436. Respondent was ordered to make restitution to his client and any Client Protection Fund claims paid, pay costs to the Disciplinary Board; comply with requirements for minimum continuing legal education (MCLE); take and pass the Multistate Professional Responsibility Examination; and retain a probation supervisor for at least one (1) year after the suspension is served.

Matter of Paul Livingston, Esq. (Disciplinary No. 08-2013-671) New Mexico Supreme Court entered an order permanently disbaring Respondent from the practice of law effective immediately for general incompetence and the filing of frivolous pleadings in the Federal Court. Respondent was ordered to turn all files over to disciplinary counsel, to give access to any IOLTA accounts, to inform all clients, opposing counsel, and courts in which he has cases pending of this disbarment, and to pay costs to the Disciplinary Board.

Summary Suspensions

Total number of attorneys summarily suspended0

Disability Suspensions

Total number of attorneys placed on disability suspension0

Charges Filed

Charges were filed against an attorney for allegations of failing to charge a reasonable fee; failing to hold property belonging to a client separate from the lawyer's own; failing to deposit legal fees and expenses paid in advance into a trust account; failing to promptly deliver to the client unearned funds; and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of failing to provide competent representation to a client; failing to act with reasonable diligence and promptness in representing a client; failing to charge a reasonable fee; failing to hold the property of another separately; failing to promptly deliver to the client funds belonging to the client; knowingly making a false statement of material fact in connection with a disciplinary matter; failing to give full cooperation and assistance to disciplinary counsel; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of sharing legal fees with a nonlawyer and forming a partnership with a nonlawyer.

Charges were filed against an attorney for allegations of failing to provide competent representation to a client; revealing information relating to the representation of a client without the client's informed consent; representing a client when the representation involved a concurrent conflict of interest because there was a significant risk that the representation of the client was limited by the lawyer's responsibilities to another party; representing a person when precluded from doing so by previous representation as third-party neutral; knowingly making a false statement of material fact in connection with a disciplinary matter; violating the Rules of Professional Conduct; engaging in conduct that is criminal and reflects on the lawyer's fitness to practice; engaging in conduct involving misrepresentation; and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of failing to provide competent representation to a client; failing to act with reasonable diligence and promptness in representing a client; failing to keep the client and the client's duly appointed personal representative reasonably informed about the status of the matters; failing to promptly comply with the client's duly appointed personal representative's reasonable requests for information; charging the client an unreasonable fee; representing a client involving a concurrent conflict of interest; failing to hold property belonging to a client separate from the lawyer's own; failing to keep client settlement funds in a trust account; failing to promptly deliver to the client unearned funds; making false statements of material fact to a third person; failing 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; committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegations of failing to competently represent a client; failing to act with reasonable promptness and diligence in representing a client; failing to keep the client reasonably informed about the status of a matter and by failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; failing to expedite litigation consistent with the interests of a client; and engaging in conduct that is prejudicial to the administration of justice.

Petitions for Reciprocal Discipline Filed

Petitions for reciprocal discipline filed0

Petitions for Reinstatement Filed

Petitions for reinstatement filed1

Anna L. Juarez, Esq. (Disciplinary No. 01-2012-640) Respondent has petitioned for reinstatement to the practice of law. The matter is pending.

Formal Reprimands

Total number of attorneys formally reprimanded2

Matter of Rudy Martin, Esq. (Disciplinary No. 07-2013-670) a formal reprimand was issued at the Disciplinary Board meeting of September 19, 2014 for the violation of Rule 16-101, failing to provide competent representation to a client; Rule 16-103, failing to act with reasonable diligence and promptness in representing a client; Rule 16-104(A), failing to communicate with your client; Rule 16-302, failing to make reasonable efforts to expedite litigation consistent with the interests of the client; and Rule 16-804(D), engaging in conduct prejudicial to the administration of justice. The formal reprimand was published in the State Bar Bulletin issued October 8, 2014.

Matter of Peter Everett, Esq. (Disciplinary No. 01-2014-686) formal reprimand was issued at the Disciplinary Board meeting of September 19, 2014 for the violation of Rule 16-101, failing to provide competent representation to a client; Rule 16-103, failing to act with reasonable diligence and promptness in representing a client; Rule 16-104(A), failing to communicate with your client; Rule 16-116(A), failing to withdraw from representation of a client when a physical condition materially impaired the ability to represent the client; and Rule 16-804(D), engaging in conduct prejudicial to the administration of justice. The formal reprimand was published in the State Bar Bulletin issued October 8, 2014.

Informal Admonitions

Total number of attorneys admonished5

An attorney was informally admonished for failing to act with reasonable diligence and promptness in representing a client; failing to keep the client reasonably informed about the status of the matter; failing to promptly comply with reasonable requests for information; and failing to provide the client with an accounting of services in violation of Rules 16-103, 16-104(A)(3), 16-104(A)(4), and 16-115(D) of the Rules of Professional Conduct.

An attorney was informally admonished for the conflict of interest that arose from undertaking representation of two (2) clients and later firing one (1) in order to sue the client in violation of Rule 16-107 of the Rules of Professional Conduct.

An attorney was informally admonished following a period of probation for failing to competently represent a client and filing misleading information in pleadings with the court in violation of Rules 16-101, 16-103, 16-302, 16-503, and 16-804(D) of the Rules of Professional Conduct.

An attorney was informally admonished for failing to competently represent a client; and failing to act with reasonable diligence and promptness in representing a client in violation of Rules 16-101 and 16-103 of the Rules of Professional Conduct.

An attorney was informally admonished pursuant to an order issued by the disciplinary board following formal charges for the conflict of interest that arises from undertaking representation of two (2) clients and later firing one (1) in order to sue the client in violation of Rule 16-107 of the Rules of Professional Conduct.

Letters of Caution

Total number of attorneys cautioned11

Attorneys were cautioned for the following conduct: (1) overreaching excessive fees (2 letters of caution issued); (2) failure to protect interest of client; (3) bank overdraft; (4) failure to communicate (4 letters of caution issued); (5) advertising/solicitation; (6) pattern of misconduct; and (7) employment discrimination.

Complaints Received

<i>Allegations</i>	<i>No. of Complaints</i>
Trust Account Violations.....	2
Conflict of Interest.....	0
Neglect and/or Incompetence.....	87
Misrepresentation or Fraud.....	12
Relationship with Client or Court.....	23
Fees.....	18
Improper Communications.....	2
Criminal Activity.....	0
Personal Behavior.....	12
Other.....	13
Total number of complaints received.....	169