

DISCIPLINARY QUARTERLY REPORT

Reporting Period: October 1, 2015 – December 31, 2015

REPORT BY DISCIPLINARY COUNSEL

Final Decisions

Final Decisions of the NM Supreme Court1

Matter of Marcelina Y. Martinez, an unauthorized person practicing law, (Supreme Court No. S-1-SC-35210) The New Mexico Supreme Court entered an order enjoining Respondent, a non-attorney, from engaging in the unauthorized practice of law. Respondent was enjoined from preparing legal documents for other persons or entities; giving legal advice to any person or entity; acting as representative or intermediary for other persons or entities with their legal matters including, but not limited to, foreclosure matters; and using, modifying, amending, or deleting language from legal form documents for use by other persons or entities. Respondent was further ordered to pay costs to the disciplinary board.

Summary Suspensions

Total number of attorneys summarily suspended0

Administrative Suspensions

Total number of attorneys administratively suspended.....0

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 keep proper records and failing to provide a full accounting upon request; engaging in conduct involving fraud, deceit, dishonesty, and 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 abide by the client's decision as to whether a plea would be entered; failing to represent the client diligently; and engaging in conduct prejudicial to the

administration of justice.

Charges were filed against an attorney for allegations of failing to hold the property of another separately and failing to maintain complete records of all client funds.

Petitions for Reciprocal Discipline Filed

Petitions for reciprocal discipline filed0

Petitions for Reinstatement Filed

Petitions for reinstatement filed0

Formal Reprimands

Total number of attorneys formally reprimanded2

Matter of John James D'Amato, Esq. (Disciplinary No. 04-2015-718) a Formal Reprimand was issued at the Disciplinary Board meeting of November 20, 2015, for the violation of Rule 16-103, failing to act with reasonable diligence and promptness in representing a client; Rule 16-115, failing to promptly disburse funds that the client was entitled to receive; and Rule 16-115(D), failing to promptly render a full accounting of client funds. The Formal Reprimand was published in the State Bar Bulletin issued December 16, 2015.

Matter of Jason S. Montclare, Esq. (Disciplinary No. 09-2014-697) a Formal Reprimand was issued at the Disciplinary Board meeting of November 20, 2015, for the violation of Rule 16-504, sharing legal fees with a non-lawyer. The Formal Reprimand was published in the State Bar Bulletin issued December 16, 2015.

Informal Admonitions

Total number of attorneys admonished4

An attorney was informally admonished for entering into a business transaction with a client knowingly acquiring an ownership, possessory, security or other pecuniary interest advise to a client causing a conflict of interest in violation of Rule 16-108(A) of the Rules of Professional Conduct.

An attorney was informally admonished for failing to provide competent representation to 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 for failing to provide competent representation to a client; failing to resolve the conflict of interest between multiple clients and failing to

resolve the conflict with respect to the duties to the client; and by engaging in conduct prejudicial to the administration of justice in violation of Rules 16-101, 16-107, and 16-804(D) of the rules of Professional Conduct.

An attorney was informally admonished for failing to provide competent representation to a client; failing to resolve the conflict of interest between multiple clients and failing to resolve the conflict with respect to the duties to the client; and by engaging in conduct prejudicial to the administration of justice in violation of Rules 16-101, 16-107, and 16-804(D) of the rules of Professional Conduct.

Letters of Caution

Total number of attorneys cautioned11

Attorneys were cautioned for the following conduct: (1) harassment (2 letters of caution issued); (2) general incompetence (3 letters of caution issued); (3) bank overdraft (2 letters of caution issued); (4) general misrepresentation to the Court; (5) conduct prejudicial to the administration of justice; (6) overreaching/excessive fees; (7) failure to comply with Court order.

Complaints Received

<i>Allegations</i>	<i>No. of Complaints</i>
Trust Account Violations.....	3
Conflict of Interest.....	0
Neglect and/or Incompetence.....	89
Misrepresentation or Fraud.....	12
Relationship with Client or Court.....	18
Fees.....	4
Improper Communications.....	0
Criminal Activity.....	0
Personal Behavior.....	13
Other.....	7
Total number of complaints received.....	146