

DISCIPLINARY QUARTERLY REPORT

Reporting Period: January 1, 2016 – March 31, 2016

REPORT BY DISCIPLINARY COUNSEL

Final Decisions

Final Decisions of the NM Supreme Court9

Matter of Albert Costales, Esq. (Disciplinary No. 06-2015-722). The New Mexico Supreme Court accepted a conditional agreement and entered an order suspending Respondent from the practice of law for two (2) years for: (a) engaging in conduct intended to disrupt a tribunal; (b) making a statement with reckless disregard to its truth or falsity concerning the qualifications of an adjudicatory official; and (c) failing to properly safeguard client property. The Court deferred the suspension upon the following conditions: Respondent must: (a) undergo an audit of his trust and operating accounts after a twelve (12) month period; (b) attend continuing education on the topic of civility and professionalism; (c) comply with the Rules of Professional Conduct and Rules Governing Discipline; and (d) pay costs to the Disciplinary Board.

Matter of Douglas Booth, Esq. (Disciplinary No. 08-2015-729). The New Mexico Supreme Court accepted a conditional agreement and entered an order suspending Respondent from the practice of law for eighteen (18) months for failing to protect the interests of the client and trust account violations. The Court deferred the suspension upon the following conditions: Respondent must (a) undergo an audit of his trust and operating accounts after a twelve (12) month period; (b) attend continuing education on the topic of proper trust account procedures; (c) comply with the Rules of Professional Conduct and Rules Governing Discipline; and (d) pay costs to the Disciplinary Board.

Matter of Jason S. Montclare, Esq. (Disciplinary No. 11-2013-682). The New Mexico Supreme Court entered an order suspending Respondent from the practice of law for a period of six (6) months, which was deferred upon specific terms and conditions, for overreaching/excessive fees and commingling funds. Respondent was ordered to: (a) reimburse a third party; (b) obtain a signed quitclaim deed for the property at issue in the disciplinary proceeding; and (c) attend the next Ethicspalooza CLE. Respondent will receive a public censure to be issued by the Supreme Court at a later date. Respondent was also ordered to pay costs to the disciplinary board.

Matter of Armando Torres, Esq. (Disciplinary No. 10-2014-708). The New Mexico Supreme Court entered an opinion publicly censuring Respondent for neglect that resulted in the dismissal of a client's personal injury case for failure to prosecute, and for Respondent's subsequent deception to the client and to the Disciplinary Board, although Respondent did make his client whole.

Matter of Rita Nunez Neumann, Esq. (Disciplinary No. 10-2014-704). The New

Mexico Supreme Court entered an order denying Respondent's application for retirement in lieu of resignation and permanently disbaring Respondent from the practice of law for misrepresentation to the Court, specifically perjury while representing a client. Respondent was further ordered to comply with all obligations under Rule 17-212 NMRA.

Matter of Emilio J. Chavez, Esq. (Disciplinary No. 10-2014-704). The New Mexico Supreme Court entered an order issuing a Formal Reprimand for violation of Rule 16-404(A) NMRA, as a result of Respondent's issuance of subpoenas without authority in his capacity as an Assistant District Attorney. The Reprimand was deferred for one (1) year and will be automatically withdrawn if Respondent commits no further violations of the Rules of Professional Conduct during the one-year deferral period. The Court will issue a written opinion at a later date.

Matter of Donald Gallegos, Esq. (Disciplinary No. 10-2014-705). The New Mexico Supreme Court entered an order issuing a Formal Reprimand for violations of Rule 16-404(A) and Rule 16-501(C) NMRA, as a result of Respondent's subordinate issuing subpoenas without authority with Respondent's knowledge and ratification in his capacity as a District Attorney. The Reprimand was deferred for one (1) year and will be automatically withdrawn if Respondent commits no further violations of the Rules of Professional Conduct during the one-year deferral period. The Court will issue a written opinion at a later date.

Matter of Thomas Charles Esquibel, Esq. (Disciplinary No. 06-2015-723). The New Mexico Supreme Court accepted a conditional agreement and entered an order indefinitely suspending Respondent from the practice of law for a period of no less than eighteen (18) months for general incompetence and failure to communicate with clients. Respondent was further ordered to fully reimburse the New Mexico Client Protection Fund and take and successfully complete an ethics course prior to filing any petition for reinstatement. The Respondent must also pay costs to the Disciplinary Board.

Matter of Marcos Gonzalez, Esq. (Disciplinary No. 03-2015-717). In light of the compelling mitigating factors present in this matter, the New Mexico Supreme Court entered an order indefinitely suspending Respondent from the practice of law, effective as of September 21, 2015, for a period of time no less than two (2) years for conversion and the failure to safeguard client's funds. Respondent was further ordered to: (a) pay restitution to all clients on or before March 23, 2017; (b) successfully pass the Multistate Professional Responsibility Examination; (c) reimburse the Client Protection Fund on all sums expended on his behalf; (d) pay costs to the Disciplinary Board, as well as other conditions.

Summary Suspensions

Total number of attorneys summarily suspended.....1

Matter of Troy W. Prichard, Esq. (Disciplinary No. 10-2015-730) New Mexico Supreme Court entered an order summarily suspending Respondent from the practice of law.

Administrative Suspensions

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

Disability Suspensions

Total number of attorneys placed on disability suspension1

Matter of (Sealed matter) New Mexico Supreme Court entered an order placing Respondent on disability inactive status effective February 15, 2015. Any pending disciplinary matters were stayed until Respondent is found eligible for reinstatement.

Charges Filed

Charges were filed against an attorney for allegedly failing to abide by a client's decision concerning the objectives of representation and failing to consult with the client regarding the same; failing to promptly inform and keep the client reasonably informed on the status of the matter; representing a client without obtaining the client's informed consent to do so in the face of a concurrent conflict of interest between the client and a third party; accepting compensation for representing a client from one other than the client without obtaining informed consent; undertaking representation of a client when such representation, under the circumstances, would result in a violation of the Rules of Professional Conduct; assisting a nonlawyer in the unauthorized practice of law; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney allegedly representing clients while having a concurrent conflict of interest; knowingly disobeying a Court's Order; engaging in conduct intended to disrupt a tribunal; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly failing to provide competent representation; failing to act with reasonable diligence and promptness in representing a client; 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; failing to give full cooperation and assistance to disciplinary counsel; and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly charging a clearly excessive and improper fee; failing hold client property separately from their own; failing to distribute funds due to a third party; failing to keep funds for which there was a dispute separately from their own property; asserting a lien – a legal procedure – with no good-faith legal basis for doing so; and threatening retaliatory action if the Office of Disciplinary Counsel filed charges.

Charges were filed against an attorney for allegedly failing to provide competent representation to a client; failing to represent the client diligently; failing to inform the clients of a settlement offer and by failing to inform the clients of the need for a different state licensed

attorney; unlawfully practicing law without a law license in another state; making false statements of material fact in a disciplinary matter; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly failing to provide competent representation to a client; failing to represent the client diligently; failing to communicate with the client and making false statements to the client about the status of the case; failing to expedite litigation; knowingly disobeying orders of the Court; failing to make a reasonably diligent effort to comply with a discovery request; 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 allegedly 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 reasonably informed about the status of the matter; violating the Rules of Professional Conduct; failing to timely respond to a lawful demand for information from a disciplinary authority; failing to give full cooperation and assistance to disciplinary counsel; and engaging in conduct that is prejudicial to the administration of justice.

Petitions for Administrative Suspension Filed

Petitions for administrative suspension filed.....0

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 reprimanded1

Matter of Daniel Edwin Duncan, Esq. (Disciplinary No. 08-2015-727) a Formal Reprimand was issued at the Disciplinary Board meeting of March 18, 2016, for the violation of Rule 16-101, failing to provide competent representation to a client; Rule 16-107 (A)(1), by representing one client who is directly adverse to another client; Rule 16-107(A)(2), by representing clients when the representation is materially limited by the lawyer’s responsibilities to the other client; Rule 16-108(B), by using information relating to the representation of a client to the disadvantage of the client without informed consent; Rule 16-301, by bringing a

proceeding with no basis in law that is not frivolous and has no good faith for extension, modification or reversal of existing law; and Rule 16-804(A), by violating the Rules of Professional Conduct. The Formal Reprimand was published in the State Bar Bulletin issued March 30, 2016.

Informal Admonitions

Total number of attorneys admonished5

An attorney was informally admonished for failing to provide competent representation; making false statements of material fact or law to a third person; failing to report the misconduct of a judge; knowingly violating the Rules of Professional Conduct; and knowingly implying an ability to influence improperly a government agency or official to achieve results by means that violate the Rules of Professional Conduct or other law in violation of Rules 16-101, 16-401(A), 16-803(B), 16-804(A), and 16-804(E) of the Rules of Professional Conduct.

An attorney was informally admonished for engaging in conduct with no substantial purpose other than to embarrass, delay or burden a third person and engaging in conduct prejudicial to the administration of justice in violation of Rules 16-404 and 16-804 (D) of the Rules of Professional Conduct.

An attorney was informally admonished for failing to provide competent representation; 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 respond to a lawful demand for information from a disciplinary authority; failing to give full cooperation and assistance to the disciplinary board; and engaging in conduct prejudicial to the administration of justice in violation of Rules 16-101, 16-103, 16-104, 16-801(B), 16-803(D) and 16-804(D) of the Rules of Professional Conduct.

An attorney was informally admonished for failing to promptly inform the client, failing to reasonably consult with the client about the means by which the client’s objectives are to be accomplished, failing to keep the client reasonably informed about the status of the matter, and failing to promptly comply with reasonable requests for information in violation of Rule 16-104 of the Rules of Professional Conduct.

An attorney was informally admonished for failing to act with reasonable diligence and promptness in representing a client, and failing to take steps to the extent reasonably practicable to protect a client’s interests in violation of Rules 16-103 and 16-116 (D) of the Rules of Professional Conduct.

Letters of Caution

Total number of attorneys cautioned8

Attorneys were cautioned for the following conduct: (1) failing to protect the interest of a client; (2) general misrepresentation to a client; and (3) general incompetence (6 letters of caution issued).

Complaints Received

<i>Allegations</i>	<i>No. of Complaints</i>
Trust Account Violations.....	1
Conflict of Interest.....	0
Neglect and/or Incompetence.....	82
Misrepresentation or Fraud.....	10
Relationship with Client or Court.....	10
Fees.....	3
Improper Communications.....	0
Criminal Activity.....	0
Personal Behavior.....	10
Other.....	4
Total number of complaints received.....	120