

# DISCIPLINARY QUARTERLY REPORT

Reporting Period: January 1, 2017 – March 31, 2017

*REPORT BY DISCIPLINARY COUNSEL*

## Final Decisions

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

*Matter of David A. Reyes, Esq.* (Disciplinary No. 07-2016-745). The New Mexico Supreme Court accepted a conditional agreement and entered an order suspending Respondent from the practice of law for one (1) year for incompetence and a lack of diligence in two personal injury matters, and failing to communicate with clients. The Court deferred the suspension upon the following conditions: Respondent must: (a) reimburse clients and the Client Protection Fund; (b) not represent clients in personal injury/automobile accident matters; and (c) serve a one (1) year probationary period. Additionally, Respondent received a Formal Reprimand and paid costs to the Disciplinary Board.

*Matter of Armando Torres, Esq.* (Disciplinary No. 02-2016-740). The New Mexico Supreme Court entered an order suspending Respondent from the practice of law for a period of one (1) year for incompetence. Respondent was also ordered to pay costs to the Disciplinary Board.

*Matter of D. Chipman Venie, Esq.* (Disciplinary No. 01-2016-737). The New Mexico Supreme Court entered an order permanently disbaring Respondent from the practice for violating client confidences, counseling a client to engage in fraud, filing frivolous lawsuits, making false statements, offering false evidence, and charging overreaching/excessive fees. Respondent was also ordered to pay costs to the Disciplinary Board and reimburse money taken. An Opinion will be issued by the Supreme Court at a later date.

*Matter of Andrea Christman, Esq.* (Disciplinary No. 04-2014-689). The New Mexico Supreme Court entered an order reinstating Applicant to the practice of law with conditions. Applicant must also pay costs to the disciplinary board.

## Summary Suspensions

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

## Administrative Suspensions

Total number of attorneys administratively suspended.....2

*Matter of Matthew E. Ortiz, Esq.* (Disciplinary No. 10-2016-749). The New

Mexico Supreme Court entered an order administratively suspending Respondent from the practice of law for the failure to cooperate with Disciplinary Counsel.

*Matter of Elena Moreno Hansen, Esq.* (Disciplinary No. 01-2017-750). The New Mexico Supreme Court entered an order administratively suspending Respondent from the practice of law for the failure to cooperate with Disciplinary Counsel.

## **Disability Suspensions**

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

## **Charges Filed**

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 reasonably communicate with a client; knowingly making a false statement of material fact in connection with a disciplinary matter; engaging in conduct involving dishonesty, fraud, deceit and misrepresentation; and engaging in conduct prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly failing to hold property separate from the attorney's own; knowingly disobeying an obligation under the rules of the tribunal; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly failing to provide competent representation to a client; failing to hold a client's property separate from the lawyer's own property and failing to keep complete records of the account funds; knowingly disobeying an obligation under the rules of a tribunal; knowingly making a false statement of material fact in a disciplinary matter; engaging in conduct involving fraud, deceit, or misrepresentation; and engaging in conduct that is 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 a client diligently; failing to inform the client of a hearing and an order, and obligation under the order; making a false statement of material fact in a disciplinary proceeding; and engaging in conduct that is 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; failing to promptly comply with reasonable requests for information; charging an unreasonable fee; failing to hold the property of another separately; failing to maintain complete records of all client funds; failing to timely respond to a lawful demand for information from a disciplinary authority; failing to give full cooperation and assistance to disciplinary counsel; violating the Rules of

Professional Conduct; and engaging in conduct that is prejudicial to the administration of justice.

Charges were filed against an attorney for allegedly representing a client when there is a significant risk that the representation of the client will be materially limited by the personal interest of the lawyer; failing to properly withdraw from representation when the lawyer's representation violates the Rules of Professional Conduct; knowingly failing to disclose a fact necessary to correct a misapprehension known by the lawyer to have arisen in the disciplinary matter; failing to give full cooperation and assistance to disciplinary counsel; engaging in conduct involving fraud, dishonesty, deceit, or misrepresentation; and engaging in conduct that is prejudicial to the administration of justice.

### **Petitions for Reciprocal Discipline Filed**

Petitions for reciprocal discipline filed .....0

### **Reinstatement from Probation**

Petitions for reinstatement filed .....1

*John Wayne Higgins, Esq.* (Disciplinary No. 09-2013-676) Respondent petitioned for reinstatement to the practice of law from probation. The Supreme Court granted the petition in an Order dated March 10, 2017.

### **Formal Reprimands**

Total number of attorneys formally reprimanded .....3

*Matter of Merrie L. Chappell, Esq.* (Disciplinary No. 04-2016-742) a Formal Reprimand was issued at the Disciplinary Board meeting of January 1, 2017, for the violation of Rule 16-304(C), knowingly disobeying an obligation under the rules of a tribunal; Rule 16-803(D), failing to give full cooperation to disciplinary counsel; Rule 16-804(C), engaging in conduct involving negligent misrepresentation; and Rule 16-804(D), engaging in conduct that was prejudicial to the administration of justice. The Formal Reprimand was published in the State Bar Bulletin issued February 8, 2017.

*Matter of David A. Reyes, Esq.* (Disciplinary No. 07-2016-745) a Formal Reprimand was issued at the Disciplinary Board meeting of March 17, 2017 – pursuant to the Amended Conditional Agreement Admitting the Allegation and Consent to Discipline, adopted by the Supreme Court of New Mexico on January 4, 2017, – 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 keep the client reasonably informed about the status of the matter and failing to comply with reasonably requests of information; Rule 16-104(B), failing to explain the matter to the extent reasonably

necessary to permit the client to make informed decisions regarding the matter; Rule 16-302, failing to make reasonable efforts to expedite litigation; and Rule 16-804(D), engaging in conduct that was prejudicial to the administration of justice. The Formal Reprimand was published in the State Bar Bulletin issued April 5, 2017.

*Matter of Shannon Robinson, Esq.* (Disciplinary No. 09-2016-748) a Formal Reprimand was issued at the Disciplinary Board meeting of March 17, 2017, – pursuant to the Conditional Agreement Not Contesting the Allegation and Consent to Discipline – for the violation of Rule 16-101, failing to provide competent representation to a client; Rule 16-103, failing to represent the client diligently; Rule 16-104(A), Failing to communicate with the client; Rule 16-302, failing to expedite litigation; and Rule 16-804(D), engaging in conduct that was prejudicial to the administration of justice. The Formal Reprimand was published in the State Bar Bulletin issued April 5, 2017.

### **Informal Admonitions**

Total number of attorneys admonished .....4

An attorney was informally admonished pursuant to a *Conditional Agreement Admitting the Allegations and Consent to Discipline* for failing to promptly disburse funds that the Client was entitled to receive and failing to make reasonable efforts to ensure that the firm had in effect measures that gave reasonable assurance of compliance with Rule 17-204 (filing to maintain records as required) in violation of Rules 16-115(D) and 16-501(A) of the Rules of Professional Conduct.

An attorney was informally admonished pursuant to a *Conditional Agreement Admitting the Allegations and Consent to Discipline* for failing to promptly disburse funds that the Client was entitled to receive and failing to make reasonable efforts to ensure that the firm had in effect measures that gave reasonable assurance of compliance with Rule 17-204 (filing to maintain records as required) in violation of Rules 16-115(D) and 16-501(A) 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 make reasonable efforts to expedite litigation consistent with the interests of the client; and engaging in conduct prejudicial to the administration of justice in violation of Rules 16-101, 16-103, 16-104, 16-302, and 16-804(D) of the Rules of Professional Conduct.

An attorney was informally admonished for knowingly disobeying an obligation under the rules of a tribunal; engaging in conduct intended to disrupt a tribunal; and engaging in conduct that is prejudicial to the administration of justice in violation of Rules 16-304, 16-305(D), and 16-804(D) of the Rules of Professional Conduct.

## Letters of Caution

Total number of attorneys cautioned .....13

Attorneys were cautioned for the following conduct: (1) general incompetence; (2) general neglect (3 letters of caution issued); (3) withholding client funds; (4) failure to communicate; (5) disruption of a tribunal; (6) bank overdraft; (7) general misrepresentation to the court (2 letters of caution issued); (8) failing to return fee; (9) improper withdrawal; and (10) unauthorized practice of law (by a non-lawyer).

## Complaints Received

| <i>Allegations</i>                       | <i>No. of Complaints</i> |
|--|--------------------------|
| Trust Account Violations.....            | 2                        |
| Conflict of Interest.....                | 0                        |
| Neglect and/or Incompetence.....         | 104                      |
| Misrepresentation or Fraud.....          | 35                       |
| Relationship with Client or Court.....   | 21                       |
| Fees.....                                | 9                        |
| Improper Communications.....             | 3                        |
| Criminal Activity.....                   | 1                        |
| Personal Behavior.....                   | 11                       |
| Other.....                               | 12                       |
| Total number of complaints received..... | 198                      |