



FILED

JUN 05 2018

STATE BAR OF NEVADA  
BY: *[Signature]*  
OFFICE OF BAR COUNSEL

Case No.: OBC15-0865

STATE BAR OF NEVADA  
SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA, )  
 )  
Complainant, )  
vs. )  
 )  
KEN R. ASHWORTH, ESQ., )  
Nevada Bar No. 4519, )  
 )  
Respondent. )  
\_\_\_\_\_ )

LETTER OF REPRIMAND

To: Ken R. Ashworth, Esq.,  
c/o Lewis Brisbois Bisgaard & Smith LLP  
Attn: Drew Cass, Esq., and Adam J. Pernsteiner, Esq.  
6385 S. Rainbow Blvd., Suite 600  
Las Vegas, NV 89118

Commencing in or around 2010, you began providing legal advice to Ralph and Faye Johnson ("the Johnsons"), including estate planning services pertaining to their estimated \$40-50 million estate. The estate planning work consisted of revising the Johnsons' existing living trust, wills, and power of attorney documents, and creating additional documents described briefly ahead. At the relevant time, the Johnsons were also providing financial support to a disabled adult sister (Nyla Petersen), and to two adult granddaughters (Melissa Petersen and Jennifer Petersen), and they were looking for a means to provide that support into the future while avoiding estate tax consequences at their deaths. You drafted four trust documents ultimately executed by the Johnsons:

1 (a) The "Ralph and Faye Johnson Living Trust," ("Living Trust") supplemented by each of  
2 the Johnsons' Last Will & Testament, Durable Power of Attorney, Durable Power of Attorney for  
3 Health Care, and HIPAA Authorizations. These documents were originally signed by the Johnsons in  
4 August 2012, and later amended and re-signed in December 2012;

5 (b) The "Irrevocable Trust Agreement of Faye P. Johnson," providing for the support of  
6 Faye Johnson's adult, disabled sister, Nyla Petersen ("Irrevocable Trust, f/b/o Nyla");

7 (c) The Irrevocable "Jennifer Petersen 2012 Spendthrift Trust," ("Jennifer Petersen  
8 Spendthrift Trust") providing for the support of the Johnsons' adult granddaughter, Jennifer Petersen;  
9 and

10 (d) The Irrevocable "Melissa Petersen 2012 Spendthrift Trust," ("Melissa Petersen  
11 Spendthrift Trust") providing for the support of the Johnsons' adult granddaughter, Melissa Petersen.

12 The contingent remainder beneficiary designated in each of the four trusts was the Ralph and Faye  
13 Johnson Private Foundation, which you prepared. Further, the Living Trust designates the Robert K.  
14 Ashworth Foundation ("RKA Foundation"), a charitable organization to promote cancer research in  
15 Nevada in memory of your son, Robert K. Ashworth, as a remainder beneficiary, along with other  
16 charitable remainder beneficiaries designated by the Johnsons.

17 You provided estate planning and tax advice to the Johnsons concerning the funding and tax  
18 consequences of the various funding options for each of these trusts in their creation and in their final  
19 distribution. As to each of these trusts, you or your law firm was named as Trustee, Co-trustee, or  
20 Successor Trustee. Similarly, you were to be appointed as a board member of the Ralph and Faye  
21 Johnson Private Foundation you were to create to act as remainder beneficiary of the Trusts. You also  
22 created the Bald Eagle Trust for Melissa Petersen with yourself listed as the trust protector while you  
23 were representing the Johnsons and serving as a fiduciary of their trusts (including Melissa's  
24 spendthrift trust). Although you served as trust protector of the Bald Eagle Trust, and were anticipated  
25

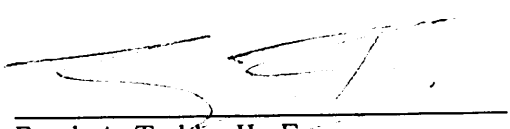
1 to serve as a board member of the Ralph and Faye Johnson Private Foundation, at the specific request  
2 of the Johnsons, you did not obtain the Johnsons' written informed consent or waiver of the potential  
3 conflict of interest in accepting these roles while also acting as the Johnsons' attorney and as a current  
4 and future trustee of their trusts, nor did you advise the Johnsons in writing to seek independent legal  
5 advice with respect to such potential conflicts.

6 Although it is your position that the Johnsons insisted upon you acting as the successor trustee  
7 on their living trust and dictated the compensation they would be willing to pay for such services, you  
8 should have better communicated with them about their options, including hiring a professional  
9 fiduciary such as a bank or trust company, and you should have more clearly advised the Johnsons to  
10 seek the advice of independent legal counsel with respect to their options for choosing a fiduciary  
11 before naming you, their attorney, in this role.

12 In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 1.4  
13 (Communication) and RPC 1.7 (Conflict of Interest: Current Clients) and are hereby  
14 **REPRIMANDED.**

15 DATED this 5 day of June, 2018.

16 Southern Nevada Disciplinary Board

17   
18 \_\_\_\_\_  
19 Frank A. Toddre II., Esq.  
20 Formal Hearing Panel Chair  
21  
22  
23  
24  
25