

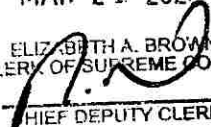
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
ELAINE A. DOWLING, BAR NO. 8051

No. 85767

FILED

MAR 22 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  CHIEF DEPUTY CLERK

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation to approve a conditional guilty plea agreement pursuant to SCR 113 in exchange for a stated form of discipline for attorney Elaine A. Dowling. Under the agreement, Dowling admitted to violations of RPC 5.5 (unauthorized practice of law), RPC 1.3 (diligence), RPC 1.15 (safekeeping property), and RPC 8.1 (bar admission and disciplinary matters). She agreed to a one-year suspension, completion of 39 CLE hours during that suspension, and payment of the disciplinary proceeding costs.

Dowling admitted to the facts and violations as part of her guilty plea agreement. The record thus establishes that she violated the above-listed rules by (1) assisting an attorney who had been disbarred in Nevada and suspended from practicing before the Securities and Exchange Commission (SEC) in representing clients and appearing before the SEC; (2) lacking diligence in representing a client in a civil matter, thus contributing to a monetary sanction against the client; (3) failing to properly manage her trust accounts, including overdrawing one account, comingling

client funds with personal and firm operating funds, and failing to keep sufficient records for transfers and distributions; and (4) failing to adequately respond to the State Bar's inquiries about the misconduct, including failing to provide client and trust account ledgers.

The issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. *See In re Discipline of Arabia*, 137 Nev., Adv. Op. 59, 495 P.3d 1103, 1109 (2021) (stating the purpose of attorney discipline). In determining the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating or mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Dowling admitted to knowingly engaging in conduct that violated duties owed to her clients, the profession, and the legal system. Dowling's misconduct harmed her client who was sanctioned and had the potential to harm other clients through her poor accounting practices. By assisting a disbarred attorney and failing to timely respond to the State Bar, Dowling also harmed the profession and the legal system. The baseline sanction before considering aggravating or mitigating factors is suspension. *See Standards for Imposing Lawyer Sanctions, Compendium of Professional Responsibility Rules and Standards*, Standard 4.42 (Am. Bar Ass'n 2018) ("Suspension is generally appropriate when . . . a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client."); Standard 7.2 ("Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a

professional and causes injury or potential injury to a client, the public, or the legal system.”).

The record supports the panel’s finding that Dowling’s substantial experience in the practice of law (roughly 20 years) is the sole aggravating factor in this matter.¹ The record also supports the three mitigating factors found by the panel: (1) the imposition of other penalties in that the SEC has prohibited her from appearing before or practicing in SEC matters; (2) Dowling maintained a cooperative attitude toward the proceedings once the State Bar filed a formal disciplinary complaint; and (3) Dowling disassociated with the disbarred attorney, consistent with an earlier disciplinary order.² Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Elaine A. Dowling from the practice of law for one year. Additionally, Dowling must complete 39 CLE hours during her suspension, including 13 credits in ethics, mental health, or substance abuse. Finally, Dowling must pay the costs of the

¹Dowling has a recent discipline history. *See In re Discipline of Dowling*, No. 83817, 2022 WL 141817 (Nev. Jan. 14, 2022) (Order Approving Conditional Guilty Plea Agreement). The parties agreed that matter would not be considered an aggravating factor for prior discipline because the conduct at issue here predated that matter.

²Although the record establishes that Dowling has ended her business relationship with the disbarred attorney, we question whether that fact is mitigating, given that the prior disciplinary order required Dowling to end her business relationship with the disbarred attorney. Regardless, the recommended discipline is consistent with the Standards for Imposing Lawyer Sanctions and consistent with discipline we have imposed for similar misconduct. Thus, we do not further address the issue.

disciplinary proceedings, including \$2,500 under SCR 120, within 30 days
this order's date. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

Stiglich, C.J.
Stiglich

Cadish, J.
Cadish

Pickering, J.
Pickering

Herndon, J.
Herndon

Lee, J.
Lee

Parraguirre, J.
Parraguirre

Bell, J.
Bell

cc: Chair, Southern Nevada Disciplinary Board
Marchese Law Office
Bar Counsel, State Bar of Nevada
Executive Director, State Bar of Nevada
Admissions Office, U.S. Supreme Court