

# STATE BAR OF NEVADA

November 20, 2020

Elaine A. Dowling, Esq.  
EAD Law Group  
8275 S. Eastern Avenue, Suite 200  
Las Vegas, NV 89123



3100 W. Charleston Blvd.  
Suite 100  
Las Vegas, NV 89102  
phone 702.382.2200  
toll free 800.254.2797  
fax 702.385.2878

RE: **LETTER OF REPRIMAND (OBC20-0383)**

Ms. Dowling:

A Southern Nevada Disciplinary Board Screening Panel convened on November 17, 2020 to consider the above-referenced grievance against you. The Panel concluded that you violated the Nevada Rules of Professional Conduct and that you should be reprimanded for your handling of that matter. This letter constitutes delivery of the Panel's reprimand.

9456 Double R Blvd., Ste. B  
Reno, NV 89521-5977  
ph 775.329.4100  
fx 775.329.0522  
[www.nvbar.org](http://www.nvbar.org)

You represented a client in a business matter in August 2019. Your client submitted a grievance on March 25, 2020 through new counsel that related to your representation of the client from November 2019 through the present.

You presented your client with a written fee agreement for signature on August 28, 2019. This agreement stated that the compensation was "fully earned and irrevocable" upon signature. That sum here was for \$32,500 that your agreement characterized as "Flat Fees" for the prospective preparation of forms necessary for a company to be considered for public trading with the SEC. Your client signed your agreement on August 29 and tendered the entire sum the following day on August 30. On August 30, 2019, you placed the \$32,500 fee into your business checking account rather than an IOLTA. The following day (August 31), you withdrew over \$9,000 of that sum, prior to any work being performed or any immediate benefit being conferred to your client.

On September 11, 2019, communication ceased between you and your client. On November 11, 2019, your client terminated your services and requested the return of the fees. On December 6, 2019, you responded to another client communication stating you would get back to them about a proposed refund although it was a "non-refundable fee agreement." Your client immediately responded seeking the return of the entire fee and stated they would seek counsel if necessary. Despite the client's renewed request and new counsel's attempts for over a year, you have not returned the unearned fees.

Pursuant to NRPC 1.5(a), "A lawyer shall not make an agreement for, charge, or collect an unreasonable fee..." NRPC 1.16(d) also provides "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, such as ...refunding any advance payment of fee or expense that has not been earned or incurred." Here,

you charged a \$32,500 flat fee for a legal project. While flat fees are not inherently unethical, the fees charged cannot encumber a client's right to terminate the lawyer's service nor does such alter a lawyer's right to receive nothing more than a reasonable fee. Your fee for services rendered here, however labeled, becomes unreasonable if it is unearned. Here, you immediately deposited the funds in a non-IOLTA account and spent over \$9,000 of the fee within 48 hours of delivery before any work was performed. You have retained unearned fees for over a year despite numerous requests.

ABA Standard 7.2 states that Suspension is the appropriate sanction because you acted knowingly and caused injury to your client. Based upon the totality of circumstances here, a downward deviation in discipline is warranted under ABA Standard 9.32(a) based upon your lack of discipline history.

Based on the foregoing, you are hereby **REPRIMANDED** for a violation of NRPC 1.5(a) and 1.16(d). Please move this matter toward conclusion by promptly submitting to mandatory fee dispute through the Fee Dispute Arbitration Committee. Separate and apart from arbitration, please conclude this matter by remitting the minimum costs of \$1,500 for this Reprimand action within 30 days of the issuance of this sanction (SCR 120(3)).

Please allow this Reprimand to serve as a thoughtful reminder of your professional ethical obligations. We wish you well in your practice and trust that no similar problems will arise in the future.

Sincerely,

*Dan R. Waite*  
Dan R. Waite (Nov 19, 2020 15:15 PST)

Dan R. Waite, Esq.  
Screening Panel Chair  
Southern Nevada Disciplinary Board