



May 9, 2017

**LETTER OF REPRIMAND**

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Re: Grievance File No. OBC16-1487 / Roger Herman

Dear Mr. Gustin:

A Screening Panel of the Southern Nevada Disciplinary Board (the "Panel") convened on May 9, 2017, to consider the above-referenced grievances against you. The Panel concluded that you violated the Rules of Professional Conduct ("RPC"), and that you should be reprimanded. This letter constitutes delivery of that reprimand.

Roger Herman ("Herman") is the owner of a Nevada trucking company, Herman Trucklines, LLC. Herman hired you in October, 2014, to act as the Registered Agent for his company. Herman paid you \$825. Herman paid you another \$850 dollars in November, 2015, to continue acting as the Registered Agent. Your duties as the Registered Agent included filing the company's annual list of officers and obtaining the State of Nevada business license for the years 2014 and 2015. Herman subsequently learned that his company's business license had been revoked.

Herman learned that, although you had filed paperwork to have yourself listed as the company's registered agent, you had failed to perform legal work which Herman had engaged and paid you for, causing its status with the Nevada Secretary of State to be revoked for two years. Herman had to hire new counsel and had to pay additional fees and penalties to gain reinstatement. Herman subsequently filed a grievance with the State Bar.

Herman alleged in his grievance that, as his attorney of record, you would have been notified that his company was in default with the Nevada Secretary of State and would have received the notice of default and finally the notice of revoked status. Not only did you fail to perform the work you were hired to do, when you were notified of the revocation, you failed to notify Herman.

When Herman contacted you regarding this specific complaint, your response was to request Herman pay you more money to file his company's newly required Commerce Tax Return, a service Herman says he did not hire you to do.

Herman hired new counsel, Robert H. Domico, SBN #6272 (Domico) to resolve the filing issues. Herman was forced to pay penalties and late fees. Mr. Domico sent you a demand for reimbursement, which you responded to and admitted that you failed to submit the annual filings for Herman's company. You then countered that Herman had outstanding bills with your firm.

In your response to the State Bar, you stated that you were hired by Herman for the following matters: an IRS Representation matter on September 24, 2009; November 3, 2009, for a Nevada Limited Liability Company matter; and on November 16, 2009 for a Nevada Asset Protection Trust and Nevada Estate Plan matter. You provided Letters of Engagement signed by yourself and Herman.

Regarding Herman's LLC filings, you claimed that Herman originally brought this issue to your attention in 2016. You claimed that you "mistakenly thought that it was because the new Nevada Commerce tax return had not been and/or needed to be filed to correct this issue and I alerted him to this." You did not provide any documents to Herman, Domico or the State Bar to substantiate this defense. You enclosed the four engagement letters and insisted that the real concern was that Herman owed you money based on the following billings:

IRS Representation	\$1530.00
NV LLC	\$1140.00
NV Estate Plan	\$750.00
NV Asset Protection Trust	<u>\$0</u>
Subtotal	\$3420.00
Less Due to Herman	-\$2325.00
Total Due from Herman	\$1095.00

You included work never performed in this bill, \$1140 for the Nevada LLC. The itemized billing record provided by you to Herman shows a total of \$3,240.00 for 10.8 billable hours at \$300 per hour for the dates November 3, 2009-November 21, 2016. Despite being hired to perform duties for 2015 and 2016, you performed no work on Herman's behalf after November 22, 2013. Herman provided an invoice from his company showing that his company has paid you a total of \$16,475.00, including the previous referenced payments of \$850 and \$825.

You also initially failed to respond to the State Bar inquiries, and later advised our office that you live full time in Florida, but list a Las Vegas, Nevada, address for your SCR 79 address. You indicated that the two State Bar letters of investigation had not yet been forwarded to you, a month after the fact. We noted you listed the very same address for the purposes of acting as Registered Agent for Herman's company. It is obvious that you.

Rule of Professional Conduct 1.3 (Diligence) requires attorneys to act with reasonable diligence and promptness in representing a client. In this case, you completely abdicated your responsibilities as Herman's Registered Agent, resulting in harm to your client's business. This includes using denoting a mailing address on the corporate filings that you fail to diligently monitor.

Rule of Professional Conduct 1.4 (Communication) requires attorneys to keep their clients reasonably informed about their case. Even when you were notified by the Secretary of State that Herman's business licensed had been revoked, you failed to tell Herman about the revocation.

Rule of Professional Conduct 1.5 (Fees) requires an attorney to charge reasonable fees. In this case, you failed to perform any work on Herman's cases for more than two years, and still insisted that you were due more than the \$16,475.00 already paid to you.

Based on the foregoing you are hereby **REPRIMANDED** for violation of RPC 1.3 (Diligence), RPC 1.4 (Communication) and RPC 1.5 (Fees). The Screening Panel has also imposed SCR 120 costs in the amount of **\$1,500**. We trust that this reprimand will serve as a reminder to you of your ethical obligations, and that no such problems will arise in the future.

Sincerely,

  
Kenneth Hogan, Esq.  
Screening Panel Chair  
Southern Nevada Disciplinary Board

KH/jvi