

STATE BAR OF NEVADA



January 31, 2023

LETTER OF REPRIMAND

Garrett T. Ogata, Esq.
Bar No. 7469
c/o David A. Clark, Esq.
LIPSON NEILSON
9900 Covington Cross, Suite 120
Las Vegas, NV 89144
Sent via email: dclark@lipsonneilson.com

3100 W. Charleston Blvd.,
Ste. 100
Las Vegas, NV 89102-1992
phone 702.382.2200
toll free 800.254.2797
fax 702.385.2878

9456 Double R Blvd., Ste. B
Reno, NV 89521-5977
phone 775.329.4100
fax 775.329.0522

www.nvbar.org

RE: LETTER OF REPRIMAND – RPC 8.4(b) & SCR 111(2)
Grievance File No.: CR19-1101

Mr. Ogata:

About 3:01 am on August 30, 2019, the Nevada Highway Patrol arrested you for Driving Under the Influence (“DUI”) alongside Interstate route 215 and Eastern. You rear-ended an occupied vehicle at high speed on the interstate, causing serious injuries to its two occupants. This was your second DUI within 7 years.

On January 12, 2021, you pleaded no contest to a misdemeanor offense of DUI (second offense) and guilty to a felony offense of Reckless Driving causing substantial bodily harm. You negotiated a plea deal with the special prosecutor to reduce the felony to a misdemeanor if you completed the conditions of probation. After you successfully completed all conditions, on December 9, 2021, the District Court reduced the felony reckless driving charge to a misdemeanor offense. You did not report your arrest or conviction to the State Bar as required by SCR 111(2).

On November 4, 2021, the State Bar of Nevada filed a mandatory petition with the Nevada Supreme Court under SCR 111 advising them of the convictions and requesting their discretionary election on referral of the DUI conviction for discipline consideration. On January 28, 2022, the Nevada Supreme Court issued an order referring the matter to the Southern Nevada Disciplinary Board for discipline consideration. On January 28, 2022, the Nevada Supreme Court issued an order referring the matter to the Southern Nevada Disciplinary Board for discipline consideration.

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A Southern Nevada Disciplinary Board Formal Hearing Panel convened on November 16 and November 18, 2022 to consider the State Bar's complaint filed March 2, 2022 alleging that you violated Rule of Professional Conduct ("RPC") 8.4(a) (Misconduct) and Nevada Supreme Court Rule ("SCR") 111(2) (Self-report). The panel received sworn testimony and documentary evidence regarding your conduct. The Panel concluded unanimously that you violated both rules. It held that you should receive a Letter of Reprimand for your conduct. This letter constitutes delivery of the Panel's reprimand.

RPC 8.4 (b) (Misconduct) states in relevant part: "It is professional misconduct for a lawyer to: (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;"

Here, you committed a criminal act, namely a second offense DUI, a violation of Nevada Revised Statutes ("NRS") 484C.110 and 484C.400. The Panel found that this criminal act reflected adversely on your fitness as a lawyer.

SCR 111(2) (Duty to inform bar counsel) states: "Upon being convicted of a crime by a court of competent jurisdiction, other than a misdemeanor traffic violation not involving the use of alcohol or a controlled substance, an attorney subject to these rules shall inform bar counsel within 30 days."

Here, you pleaded no contest to a traffic violation involving the use of alcohol, namely the DUI charged in the Eighth Judicial District Court. SCR 111(1) directs that a "conviction" includes a no contest plea "... regardless of whether a sentence is suspended or deferred or whether a final judgment of conviction has been entered, and regardless of any pending appeals." SCR 111(2) required you to report your DUI conviction no later than February 10, 2021. You did not report your conviction.


"Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice." *ABA Standards for Imposing Lawyer Sanctions* §5.12 (2nd Ed. 2019).

However, the panel weighed aggravating and mitigating circumstances. It found that the mitigating circumstances warranted a downward deviation from the suspension standard to a Letter of Reprimand. The aggravating factors included selfish motive, multiple offenses, vulnerability of victims, substantial experience in the practice of law and illegal conduct. The mitigating factors included full restitution to the victims, lack of a prior record, remorse, character or reputation, cooperative attitude toward the proceeding, imposition of other penalties or sanctions, and continuous sobriety and rehabilitation since the date of the accident. It ordered the State Bar to monitor your progress in treatment during a one-year term of probation. The panel also ordered you to submit quarterly reports of your progress to the State Bar.

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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,



Jason Maier (Feb 1, 2023 21:23 PST)

Jason R. Maier, Esq.
Formal Hearing Panel Chair
Southern Nevada Disciplinary Board