

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
JENNIFER K. WENSINK, BAR NO.
8919.

No. 56675

FILED

JUL 27 2011

TRACIE K. ANDELIAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF DISBARMENT

This is an automatic review of a decision of a hearing panel of the Southern Nevada Disciplinary Board, recommending that attorney Jennifer K. Wensink be disbarred from the practice of law in Nevada. See SCR 105(3)(b). Neither Wensink nor the State Bar filed briefs in this matter; therefore, it has been submitted for final decision on the record without briefing or oral argument, SCR 105(3)(b). We conclude that disbarment is warranted.

FACTS AND PROCEDURAL HISTORY

Wensink's misconduct stems from five separate matters.

First, Wensink represented Maria Villarnovo in an uncontested divorce. After Villarnovo made numerous phone calls to Wensink for an update on her case, Wensink provided her with divorce-related documents purportedly filed with the court. However, Villarnovo discovered that the documents had not been filed and, after several attempts to contact Wensink, Villarnovo retained another attorney to secure a divorce.

Second, Wensink represented Chase Harmer in a number of traffic tickets that he had received. Wensink failed to handle the matter or appear at a hearing. Harmer repeatedly and unsuccessfully attempted

Effective Date: July 27, 2011
Bar No. 8919

11-22615

to reach Wensink. Wensink did, however, send Harmer's mother emails where she informed Harmer's mother that motions to withdraw had been filed in those matters and copies of those pleadings had been mailed to Harmer, but the Harmers never received the pleadings. As a result of Wensink's inaction, Harmer's driver's license was suspended.

Third, Keith Zerlin retained Wensink's employer, Jeffrey Posin & Associates, to seal a felony conviction. Wensink was assigned the case. Zerlin attempted to contact Wensink over a three-week period to no avail. Zerlin appeared at Wensink's office and met with her. She informed Zerlin that the documents necessary to seal the conviction were with the District Attorney's Office. A week later, Wensink informed Zerlin that the matter was completed. Relying on that statement, Zerlin represented on a job application with a casino that he had never been arrested or convicted of a felony, as allowed under NRS 179.285(1). Zerlin was hired by the casino but later fired for lying about his conviction on his job application. Wensink explained to Zerlin that the District Attorney's Office bungled the application. However, Zerlin discovered from the District Attorney's Office that it had never received any documents related to the sealing of records.

Fourth, Wensink represented Patti Kelly in a divorce. Rather than commencing divorce proceedings, Wensink created a fictitious divorce decree for Kelly after Kelly threatened to contact Jeffrey Posin & Associates to express her frustration regarding the lack of progress on her case.

Fifth, Jeffrey Posin & Associates was listed as the attorney of record in a case, David Baumgartner v. Venetian Casino Resort, LLC, and referred to the State Bar by this court for investigation and possible

disciplinary proceedings pursuant to SCR 105. Because the State Bar did not receive a response, it commenced a disciplinary proceeding against Posin. Acting as Posin's counsel, Wensink sent a letter to the State Bar indicating that a response would be sent within a week, but the State Bar did not receive a response until after the formal complaint was filed. At the disciplinary hearing, Posin explained that he discovered that Wensink had hidden certain correspondence, including this court's orders and State Bar letters, related to the Baumgartner matter. Posin also became aware that Wensink altered information in the firm's case management system so that the system would not produce status reports on cases and failed to inform Posin of issues in the Baumgartner case and other matters. Posin subsequently terminated Wensink, after which he discovered that Wensink had provided a fictitious divorce decree to a client (unrelated to allegations in the instant proceeding), produced a fictitious document in a workers' compensation matter, and filed a bankruptcy action using another attorney's bankruptcy court account and Posin's bar number.

The State Bar sent multiple letters to Wensink regarding the investigation into the matters described above, but Wensink failed to respond. The State Bar filed three formal complaints against Wensink, alleging a total of 26 counts of misconduct. Despite receiving ample notice of the proceedings against her, Wensink failed to file an answer or otherwise defend against the charges.¹

¹Wensink sent an email to the State Bar on the day of the disciplinary hearing explaining that she is suffering from mental illness, that she does not wish to be an attorney and will voluntarily surrender her law license, and that she is sorry for any harm she has caused.

The panel found five violations of RPC 1.3 (diligence), five violations of RPC 1.4 (communication), one violation of RPC 1.16 (declining or terminating representation), five violations of RPC 3.2 (expediting litigation), one violation of RPC 3.4 (fairness to opposing party and counsel), four violations of RPC 8.1 (bar admission and disciplinary matters), and five violations of RPC 8.4 (misconduct). The panel also found the following aggravators, pursuant to SCR 102.5: (1) Wensink had a dishonest motive in preparing fictitious documents and pleadings in an attempt to mask her lack of diligence, (2) a pattern of misconduct, and (3) multiple offenses—26 violations of the RPC. The panel found no mitigating circumstances. Based on its findings, the panel recommended that Wensink be disbarred from the practice of law in Nevada and that she be required to pay the costs of the disciplinary proceeding.

DISCUSSION

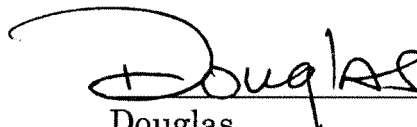
A disciplinary panel's decision recommending disbarment is subject to automatic review by this court. SCR 105(3)(b). “[Al]though persuasive, the panel's findings and recommendations are not binding on this court.” Matter of Discipline of Droz, 123 Nev. 163, 168, 160 P.3d 881, 844 (2007) (alteration omitted) (quoting In re Stuhff, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992)). “This court must review the record de novo and exercise its independent judgment to determine whether and what type of discipline is warranted.” Id. at 168, 160 P.3d at 884-85 (quoting Stuhff, 108 Nev. at 633, 837 P.2d at 855). The panel's findings of misconduct must be supported by clear and convincing evidence. In re Drakulich, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).


SCR 105(2) provides that if an attorney failed to plead in response to the complaint, the charges shall be deemed admitted. We


conclude that the allegations in the complaints are deemed admitted. We further conclude that clear and convincing evidence supports the panel's findings. Finally, we conclude that the recommended discipline is appropriate in light of the nature of Wensink's misconduct.


Accordingly, we disbar Wensink from the practice of law in this state. Such disbarment is irrevocable. See SCR 102(1). Further, Wensink shall pay the costs of the disciplinary proceedings within 30 days of receipt of the Nevada State Bar's bill of costs. SCR 120(1). The parties shall comply with the applicable provisions of SCR 115 and 121.1.

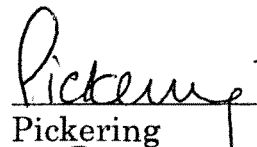
It is so ORDERED.

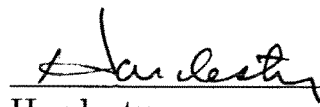

_____, C.J.
Douglas

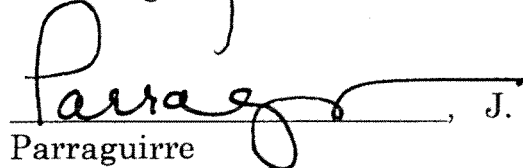

_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons


_____, J.
Pickering


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Chair, Southern Nevada Disciplinary Board
David Clark, Bar Counsel
Kimberly K. Farmer, Executive Director
U.S. Supreme Court, Admissions Office
Jennifer K. Wensink