

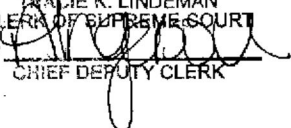
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE DISCIPLINE
OF HARVEY WHITEMORE, BAR NO.
1089.

No. 66350

FILED

MAR 20 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF SUSPENSION

This is an automatic de novo review, pursuant to SCR 105(3)(b), of a Northern Nevada Disciplinary Board hearing panel's recommendation for attorney discipline arising from attorney Harvey Whittemore's conviction of three felonies in the United States District Court, District of Nevada.¹ The panel recommended that Whittemore be suspended from the practice of law for 18 months, retroactive to the date of his temporary suspension.² The panel stated that, should the suspension expire during Whittemore's incarceration, then the suspension should continue until the date of his release from incarceration. Finally,

¹Whittemore has been temporarily suspended from the practice of law, pursuant to SCR 111(7), since November 13, 2013, *see In re Discipline of Whittemore*, Docket No. 64154 (Order Denying Petition for Reinstatement, November 13, 2013), and is currently incarcerated.

²Although the panel failed to make a specific finding, it is apparent that the panel concluded that Whittemore violated RPC 8.4 (misconduct) as this was the only violation alleged by the State Bar in its complaint.

the panel recommended that Whittemore pay the costs of the disciplinary proceedings.³

This court's automatic review of a disciplinary panel's findings and recommendations is de novo. SCR 105(3)(b); *In re Discipline of Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992). "Although the recommendations of the disciplinary panel are persuasive, this court is not bound by the panel's findings and recommendation, and must examine the record anew and exercise independent judgment." *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). The State Bar has the burden of showing by clear and convincing evidence that Whittemore committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

While we conclude that clear and convincing evidence supports the panel's findings of misconduct, we do not agree that the panel's recommended discipline is commensurate with the criminal conduct that Whittemore was convicted of engaging in. Accordingly, we suspend Whittemore from the practice of law for four years, retroactive to November 13, 2013, the date of this temporary suspension. Whittemore shall pay the costs of the disciplinary proceedings within 30 days of receipt of the State Bar's bill of costs. Because the imposed suspension is longer than six months, Whittemore must petition the State Bar for

³One dissenting member of the Northern Nevada disciplinary hearing panel would have recommended that Whittemore be permanently disbarred from the practice of law in this state.

reinstatement to the practice of law. SCR 116. The State Bar shall comply with SCR 121.1.

It is so ORDERED.⁴

1. Hardesty, C.J.
Hardesty

Douglas, J.
Douglas

Saitta, J.
Saitta

Pickering, J.
Pickering

Cherry, J.
Cherry

Gibbons, J.
Gibbons

cc: Thomas Sucich, Chair, Northern Nevada Disciplinary Board
David A. Clark, Bar Counsel
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Bradley Drendel & Jeanney
Echeverria Law Office
Perry Thompson, Admissions Office, United States Supreme Court

⁴The Honorable Ron Parraguirre, Justice, has voluntarily recused himself from participation in this matter.