

IN THE SUPREME COURT
OF THE STATE OF OREGON

In re:)
)
Complaint as to the Conduct of) Case No. 22-08
)
JESSE MAANAO,)
)
Respondent.)

Counsel for the Bar: Samuel Leineweber

Counsel for the Respondent: None

Disciplinary Board: None

Disposition: Violation of RPC 1.3, RPC 1.4(a), and RPC 1.15-1(d).
Stipulation for Discipline. 60-day suspension.

Effective Date of Order: July 1, 2022

ORDER APPROVING STIPULATION FOR DISCIPLINE

This matter having been heard upon the Stipulation for Discipline entered into by Jesse Maanao (Respondent) and the Oregon State Bar (Bar), and good cause appearing,

IT IS HEREBY ORDERED that the stipulation between the parties is approved and Respondent is suspended for 60-days, effective July 1, 2022, for violation of RPC 1.3, RPC 1.4(a), and RPC 1.15-1(d).

DATED this 28th day of February, 2022.

/s/ Mark A. Turner
Mark A. Turner
Adjudicator, Disciplinary Board

STIPULATION FOR DISCIPLINE

Jesse Maanao, attorney at law (Respondent), and the Oregon State Bar (Bar) hereby stipulate to the following matters pursuant to Bar Rule of Procedure 3.6(c).

1.

The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to the discipline of attorneys.

2.

Respondent was admitted by the Oregon Supreme Court to the practice of law in Oregon on November 4, 2004, and has been a member of the Bar continuously since that time, having his office and place of business in Multnomah County, Oregon.

3.

Respondent enters into this Stipulation for Discipline freely, voluntarily, and with the opportunity to seek advice from counsel. This Stipulation for Discipline is made under the restrictions of Bar Rule of Procedure 3.6(h).

4.

On January 29, 2022, the State Professional Responsibility Board (SPRB) authorized formal disciplinary proceedings against Respondent for alleged violations of RPC 1.3, RPC 1.4(a), and RPC 1.15-1(d) of the Oregon Rules of Professional Conduct. The parties intend that this stipulation set forth all relevant facts, violations and the agreed-upon sanction as a final disposition of this proceeding.

Facts

5.

Gabriel Salvador Salazar and his wife Ariel Salazar (the Salazars) hired Respondent on or about May 2018 to assist them with several immigration matters, including a removal proceeding and an employment authorization form for Gabriel. The Salazars were satisfied with Respondent's work until he abruptly stopped communicating with them in December 2020. At that time, Gabriel needed to renew his employment authorization form so that he could continue to legally work in the United States. At the end of November, Respondent sent the Salazars a completed copy of the employment authorization form, with instructions to sign and return the form to him for filing. By the end of December, the Salazars had returned the completed employment authorization form to Respondent and informed Respondent that they had done so. However, Respondent did not respond to the Salazar's and did not file the employment authorization form.

6.

Between January and April of 2021, the Salazars repeatedly called Respondent on the telephone, and sent him text messages and emails asking for information about their legal matters, but Respondent never replied. On April 1, 2021, the Salazars sent an email to Respondent requesting that he contact them by April 6, 2021. On April 21, 2021, after receiving no reply from Respondent, the Salazars sent him an email terminating his representation and requesting a copy of their client file by May 1, 2021. When Respondent did not reply to this request, the Salazars filed a Bar complaint.

7.

Respondent re-established communication with the Salazars in September 2021 in response to their Bar complaint. Shortly thereafter, Respondent provided the Salazars with a copy of their client file and filed Gabriel Salazar's employment authorization form.

Violations

8.

Respondent admits that by failing to file Gabriel Salazar's employment authorization form for over 10 months, he violated RPC 1.3.

Respondent admits that by failing to respond to the Salazars' reasonable requests for information for over 10 months, he violated RPC 1.4(a).

Respondent admits that by failing to promptly provide his clients' with their file upon their request, he violated RPC 1.15-1(d).

Sanction

9.

Respondent and the Bar agree that in fashioning an appropriate sanction in this case, the Disciplinary Board should consider the *ABA Standards for Imposing Lawyer Sanctions* (ABA Standards). The ABA Standards require that Respondent's conduct be analyzed by considering the following factors: (1) the ethical duty violated; (2) the attorney's mental state; (3) the actual or potential injury; and (4) the existence of aggravating and mitigating circumstances.

- A. **Duty Violated.** Respondent violated his duty to diligently represent his clients when he neglected his clients' legal matter and failed to timely communicate with his clients. ABA Standard 4.4. Respondent violated his duty to preserve and safeguard his clients' property when he failed to promptly provide them with a copy of their file. ABA Standard 4.1.

- b. **Mental State.** The most culpable mental state is that of “intent,” when the lawyer acts with the conscious objective or purpose to accomplish a particular result. ABA Standards at 9. “Knowledge” is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result. *Id.* “Negligence” is the failure to be aware of a substantial risk that circumstances exist or that a result will follow and which deviates from the standard of care that a reasonable lawyer would exercise in the situation. *Id.* Respondent acted with a knowing mental state, because he was aware that Gabriel Salazar needed his employment authorization form renewed but did not timely act upon it; he received his clients’ communications, but did not respond to them; and he received an email from his clients in which they requested their file, but did not promptly deliver their file.
- c. **Injury.** Injury can be either actual or potential under the ABA Standards. *In re Williams*, 314 Or 530, 547, 840 P2d 1280 (1992). Actual injury is harm to a client, the public, the legal system, or the profession as a result of misconduct, ranging from “serious” injury to “little or no” injury; and potential injury is harm that is reasonably foreseeable at the time of the misconduct and probably would have resulted if not for some intervening factor or event. ABA Standards at 7. Respondent’s clients both suffered actual injury in the form of frustration, stress, and anxiety as a result of Respondent’s inaction and failure to communicate. See *In re Cohen*, 330 Or 489, 496, 8 P3d 953 (2000); *In re Schaffner*, 325 Or 421, 426-27, 939 P2d 39 (1997). A client sustains actual injury when an attorney fails to actively pursue the client’s case. See, e.g., *In re Parker*, 330 Or 541, 546-47, 9 P3d 107 (2000). Here, Gabriel Salazar was injured when his employment authorization expired due to Respondent’s failure to timely file the renewal. The Salazars were also injured because they were unable to hire replacement counsel to attend to their legal matters due to Respondent not returning their file.
- d. **Aggravating Circumstances.** Aggravating circumstances include:
1. Substantial Experience in the practice of law. ABA Standard 9.22(i). Respondent has been admitted to practice law since 2004.
- e. **Mitigating Circumstances.** Mitigating circumstances include:
1. Absence of prior disciplinary record. ABA Standard 9.32(a).
 2. Absence of dishonest motive. ABA Standard 9.32(b).
 3. Personal or emotional problems. ABA Standard 9.32(c). Respondent was suffering from anxiety, depression, and post-traumatic stress disorder during the events in this matter.

4. Full and free disclosure to disciplinary board or cooperative attitude toward proceedings. ABA Standard 9.32(e).
5. Remorse. ABA Standard 9.32(l). Respondent stated that disciplinary action is appropriate for his conduct and this experience was a “wake up call” for him.

10.

Notwithstanding aggravating or mitigating factors, suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client. ABA Standard 4.42. Suspension is also generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client. ABA Standard 4.1.

11.

Fact matching between cases is a difficult endeavor, especially when multiple violations are at issue; however Oregon case law holds that a 60 day suspension is warranted under these circumstances. The Oregon Supreme Court typically imposes a suspension of at least 60 days for a knowing neglect violation. *In re Redden*, 342 Or 393, 153 P3d 113 (2007). Additionally, in cases where an attorney knowingly fails to communicate with his client and knowingly fails to provide the client with his file, the court will impose a 30 day suspension. *In re Snyder* 348 Or 307, 232 P3d 952 (2010). Taken together, the sanctions imposed in *In re Redden* and *In re Snyder* suggest that a total suspension of 90 days is appropriate. However, in this matter, the mitigating factors outweigh the aggravating factors, and a 60 day suspension is appropriate. A suspension of this length is consistent with recent cases involving similar violations. See *In re Yunker* 34 DB Rptr 26 (2020)(60 day suspension for violations of 1.3, 1.4(a), 1.4(b)); *In re Sowa* 34 DB Rptr 100 (2020)(60 day suspension for violations of RPC 1.3, 1.4(a), and 1.4(b)); *In re Holady* 33 DB Rptr 512 (2019)(60 day suspension for violations of RPC 1.3 and 1.15-1(d)).

11.

Consistent with the ABA Standards and Oregon case law, the parties agree that Respondent shall be suspended for 60-days for violation of RPC 1.3, RPC 1.4(a), and RPC 1.15-1(d), the sanction to be effective July 1, 2022.

12.

Respondent acknowledges that he has certain duties and responsibilities under the Rules of Professional Conduct and BR 6.3 to immediately take all reasonable steps to avoid foreseeable prejudice to his clients during the term of his suspension. In this regard, Respondent has arranged for Dan Larsson, OSB# 041992, Larsson Immigration Group, P.C., 21210 Dove Lane, Bend, OR 97702 an active member of the Bar, to either take possession of or have ongoing access to Respondent’s client files and serve as the contact person for clients in

need of the files during the term of his suspension. Respondent represents that Dan Larsson has agreed to accept this responsibility.

13.

Respondent acknowledges that reinstatement is not automatic on expiration of the period of suspension. He is required to comply with the applicable provisions of Title 8 of the Bar Rules of Procedure. Respondent also acknowledges that he cannot hold himself out as an active member of the Bar or provide legal services or advice until he is notified that his license to practice has been reinstated.

14.

Respondent acknowledges that he is subject to the Ethics School requirement set forth in BR 6.4 and that a failure to complete the requirement timely under that rule may result in his suspension or the denial of his reinstatement. This requirement is in addition to any other provision of this agreement that requires Respondent to attend continuing legal education (CLE) courses.

15.

Respondent represents that, in addition to Oregon, he also is admitted to practice law in the jurisdictions listed in this paragraph, whether his current status is active, inactive, or suspended, and he acknowledges that the Bar will be informing these jurisdictions of the final disposition of this proceeding. Other jurisdictions in which Respondent is admitted: U.S. District Court of Oregon, Ninth Circuit U.S. Court of Appeals, Eleventh Circuit U.S. Court of Appeals.

16.

Approval of this Stipulation for Discipline as to substance was given by the SPRB on January 29, 2022. Approval as to form by Disciplinary Counsel is evidenced below. The parties agree the stipulation is to be submitted to the Adjudicator on behalf of the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

EXECUTED this 28th day of February, 2022.

/s/ Jesse Maanao

Jesse Maanao, OSB No. 045333

EXECUTED this 28th day of February, 2022.

OREGON STATE BAR

By: /s/ Samuel Leineweber

Samuel Leineweber, OSB No. 123704

Assistant Disciplinary Counsel