

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
HERMAN G. HERBIG, ESQ.

No. 44617

FILED

FEB 04 2005

JANET E. McLEOD
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF TEMPORARY SUSPENSION

This is a petition by the Northern Nevada Disciplinary Board Chair for an order temporarily suspending attorney Herman G. Herbig from the practice of law, pending the resolution of formal disciplinary proceedings against him.¹ The petition and supporting documentation demonstrate that Herbig appears to have misappropriated approximately \$810,000 in client funds, that a judgment for this amount plus over \$2 million in punitive damages has been entered against him, and that Herbig has either fled the state or is hiding within the state to avoid service.

¹This matter was originally docketed as confidential because a formal disciplinary complaint had not yet been filed, although a screening panel has recommended the commencement of formal proceedings. See SCR 121. Since we are granting the petition, we conclude that this matter should now be open to the public.

SCR 102(4)(a) provides, in pertinent part:

On the petition of a disciplinary board, signed by its chairman or vice chairman, supported by an affidavit alleging facts personally known to the affiant which shows that an attorney appears to be posing a substantial threat of serious harm to the public, the supreme court may issue an order, with notice as the court may prescribe, imposing an immediate temporary suspension of the attorney

In addition, SCR 102(4)(b) provides that this court may place restrictions on an attorney's handling of funds.

We conclude that the documentation before us demonstrates that Herbig poses a substantial threat of serious harm, and that his immediate temporary suspension is warranted.² We further conclude that Herbig's handling of funds should be restricted.³

Accordingly, Herbig is temporarily suspended from the practice of law, pending the resolution of formal disciplinary proceedings against him.⁴ In addition, Herbig shall be prohibited from withdrawing funds in his client trust account, or from any other account containing funds belonging to third parties, except upon written approval of bar counsel or by order of a court of competent jurisdiction. The state bar

²See SCR 102(4)(a).

³See SCR 102(4)(b).

⁴Under SCR 102(4)(c), Herbig is prohibited from accepting new clients immediately. He may continue to represent existing clients for fifteen days. Any fees or other funds received from or on behalf of clients during this fifteen-day period shall be deposited in a trust account, from which no withdrawals may be made except upon written approval of bar counsel or by order of a court of competent jurisdiction.

shall immediately serve Herbig with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Herbig's law office or residence, or by publication. When served on either Herbig or a depository in which he maintains an account, this order shall constitute an injunction against withdrawal of the proceeds except in accordance with the terms of this order.⁵

It is so ORDERED.⁶

Becker _____, C.J.
Becker

Rose _____, J.
Rose

Hardesty _____, J.
Hardesty

cc: Patrick V. Fagan, Chair, Northern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Perry Thompson, Admissions Office,
Supreme Court of the United States
Herman G. Herbig

⁵See SCR 102(4)(b).

⁶Herbig and the state bar shall comply with SCR 115.

This is our final disposition of this matter. Any new proceedings concerning Herbig shall be docketed under a new docket number.