

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF ANTHONY L.
ASHBY, ESQ., AND GEORGE M.
RANALLI, ESQ.

No. 44883

FILED

SEP 13 2005

A. Ranalli
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER APPROVING CONDITIONAL GUILTY PLEA
IN EXCHANGE FOR STATED FORM OF DISCIPLINE

This is an automatic appeal from a Southern Nevada Disciplinary Board hearing panel's recommendation to approve a conditional guilty plea agreement by Las Vegas attorneys Anthony Ashby and George Ranalli for a 90-day suspension, to be stayed subject to a one-year probation with several conditions: (1) Ashby and Ranalli must each complete ten hours of CLE (in addition to the hours required by SCR 210), five hours devoted to trust account management and five hours to office management, and bar counsel must approve the selected courses; (2) they must each enter into a mentorship agreement for the one-year probation period with a mentor approved by bar counsel, and they are to meet at least monthly and the mentor(s) are to provide quarterly reports to bar counsel; (3) Ashby and Ranalli must each pay \$7,500 to the Client Security Fund by the end of the one-year probation period; (4) they must each pay one-half of the state bar's costs; and (5) they must refrain from any further misconduct during the one-year probation period. Violation of any of these conditions will result in a recommendation to this court that the 90-day suspension be imposed on the lawyer(s), or alternatively, bar counsel may

move this court directly for an order to show cause why the suspension should not be imposed on either or both of them.

Under the agreement, Ashby and Ranalli admitted to violating SCR 165 (safekeeping property) by commingling their firm's funds with client and third party funds in their trust account. Specifically, they received retainers from some of their clients, which they placed in their trust account. As they performed services for these clients, they failed to keep updated accounts and thus failed to promptly transfer earned fees to their general account from the retainer funds in their trust account. The failure to promptly transfer earned fees resulted in shortfalls in the firm's general account. Without completing a proper accounting, and thus without knowing whose funds were actually in the trust account, Ashby and Ranalli transferred funds from the trust account to the general account six times from September to December 2003 to cover payroll and other expenses. Each time, they replaced the funds within one to three weeks as additional receivables came in. Upon realizing the magnitude of their misconduct, they reported themselves to the state bar, resulting in the instant discipline proceeding. An audit of the firm's accounts indicates that Ashby and Ranalli did not actually take any funds belonging to clients or third parties, because the amounts that they took from the trust account were less than the fees they had already earned. Rather, because they did not maintain proper accounting procedures, they failed to promptly transfer fees that they earned from retainer funds in the trust account.

Misappropriation is a breach of the public's trust and thus warrants severe discipline. Here, that Ashby and Ranalli did not actually take funds that did not belong to them was the result of chance rather

than intent; at the time they decided to use the money, they did not know whose it was. Also, SCR 165 prohibits commingling a lawyer's personal funds with those of others, as well as outright misappropriation. Ashby and Ranalli's conduct clearly violated the rule. But the record also reflects substantial mitigating factors, including a lack of any prior discipline, sincere remorse, and cooperation with disciplinary authority, including their actions in reporting themselves to the bar. Also, the recommended discipline means that should Ashby or Ranalli violate any other ethical rules or the terms of their probation, then a ninety-day suspension shall be imposed.

Accordingly, we approve the panel's recommendation in its entirety. Ashby and Ranalli shall be suspended for ninety days, with the suspension to be stayed subject to a one-year probation period with the conditions listed above.

It is so ORDERED.

Becker, C.J.
Becker

Rose, J.
Rose

Maupin, J.
Maupin

Gibbons, J.
Gibbons

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Howard Miller, Chair, Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Steven B. Wolfson, Chtd.