

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF DAVID J.  
ARSENAULT, ESQ.,

No. 45377

**FILED**

SEP 13 2005

*[Signature]*  
MARIE E. ALDON  
CLERK OF SUPREME COURT  
DEPUTY CLERK

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

This is an automatic appeal from a Southern Nevada Disciplinary Board hearing panel's recommendation that we approve a conditional plea agreement in exchange for a stated form of discipline. The plea agreement provides that attorney David Arsenault be suspended from the practice of law for a period of six months and one day, refund \$1,500 to his former client, and pay for the costs of the disciplinary proceedings and any publication costs.

The plea agreement resolved two formal complaints filed by the bar against Arsenault. On May 4, 2005, Arsenault knowingly and voluntarily entered a conditional guilty plea admitting to all of the allegations contained in the two complaints. In summary, Arsenault agreed that as set forth in the first complaint, he had been paid \$1,500 to file a district court appeal for Raymond Jopes, but failed to appear at a hearing and prosecute the appeal, so that it was dismissed. Arsenault also failed to respond to Jopes' calls and requests that his file be returned. Moreover, Arsenault repeatedly failed to respond to the bar's inquiries concerning this matter, and did not provide an accurate address or

telephone number to the bar. Arsenault agreed that he violated SCR 79 (address of member), SCR 153 (diligence), and SCR 200(2) (failure to respond to bar inquiries).

Arsenault also admitted the allegations of the second complaint, that he failed to list his name as the attorney for the All Accident Injury Law Firm on its business cards, sign, forms, and advertising, and allowed a nonlawyer to interview a potential client and answer questions regarding her case and legal rights. Arsenault further admitted that although his advertisements and business cards stated that the firm charged a 21% contingent fee, his contingent fee agreement stated that the fee was 21% of any recovery before a complaint was filed and 35% after a complaint was filed. Even though Arsenault subsequently revised his letterhead to list him as the attorney and provided his updated address to the bar, he failed to respond to issues concerning his nonlawyer assistant. With respect to the second complaint, Arsenault agreed that he violated SCR 187 (responsibilities regarding nonlawyer assistants), SCR 189 (unauthorized practice of law), SCR 195 (communications concerning a lawyer's services), SCR 196 (advertising), and SCR 200(2) (failure to respond to bar inquiries).

After finding, in mitigation, that Arsenault has no prior discipline, the panel accepted Arsenault's conditional guilty plea, in exchange for the following discipline:

1. suspension for a period of six months and one day;
2. refund of \$1,500 to Jopes within six months of approval of the conditional guilty plea by the formal hearing panel; and
3. payment of costs of the disciplinary proceedings and any publication costs.

Having reviewed the record, we approve the plea agreement in full. Arsenault is suspended for a period of six months and one day, effective fifteen days after entry of this order.<sup>1</sup> Arsenault shall pay \$1,500 to Raymond Jopes by November 4, 2005. Arsenault shall also pay the disciplinary proceedings and publication costs within thirty days of receiving the bar's bill of costs.

It is so ORDERED.

Becker, C.J.  
Becker

Rose, J.  
Rose

Gibbons, J.  
Gibbons

Hardesty, J.  
Hardesty

Maupin, J.  
Maupin

Douglas, J.  
Douglas

Parraguirre, J.  
Parraguirre

cc: Howard Miller, Chair, Southern Nevada Disciplinary Board  
Rob Bare, Bar Counsel  
Allen W. Kimbrough, Executive Director, State Bar  
Richard S. Small  
Perry Thompson, Admission Office, United State Supreme Court

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<sup>1</sup>Arsenault and the state bar shall comply with SCR 115.

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