

IN THE SUPREME COURT, OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF ROBERT J.
HANDFUSS.

No. 45430

FILED

JUL 07 2005

ARETHA W. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER IMPOSING RECIPROCAL DISCIPLINE

This is a petition under SCR 114 to reciprocally discipline attorney Robert J. Handfuss, based on his disbarment in New Jersey. Handfuss has not responded to the petition.¹

Handfuss was admitted to practice law in Nevada on December 31, 1982. Until May 4, 2005, he was also licensed as an attorney in New Jersey. By order filed on May 4, 2005, the New Jersey Supreme Court approved its Disciplinary Review Board's recommendation that Handfuss be disbarred. The discipline was based on Handfuss' violation of the New Jersey equivalents of SCR 151 (competence), SCR 153 (diligence), SCR 165 (safekeeping of property), and SCR 200(2) (failure to respond to disciplinary authority).

The New Jersey disbarment was based on seventeen matters involving the purchase or refinancing of real property. Handfuss was found to have failed to cancel sellers' mortgages so that title insurance

¹According to the affidavit of Dawn Reid, Certified Legal Assistant/Investigator for the Nevada State Bar, Handfuss was notified by mail and by telephone of the bar's intent to file this petition for reciprocal discipline. He was served the petition for reciprocal discipline in person and by certified and regular mail at his New Jersey address on file with the Nevada bar.

policies were issued subject to pre-existing mortgages, and he failed to record a new mortgage. Handfuss also failed to deliver entrusted funds to a third party and failed to pay for title insurance. Furthermore, Handfuss failed to respond to the New Jersey bar's requests for information and did not appear in the court proceedings leading to his disbarment.

Aggravating circumstances considered by the New Jersey Supreme Court were: (1) that Handfuss had a prior disciplinary record, which showed identical violations in 2001 and 2002; (2) that the current violations occurred during the same time frame as the previous misconduct, from October 1998 to November 2001; and (3) that the Disciplinary Review Board found that Handfuss's "ethics character is unsalvageable." The New Jersey Supreme Court found no mitigating circumstances.

SCR 114(4) provides that this court shall impose identical reciprocal discipline unless the attorney demonstrates or this court determines that one of three exceptions applies:

- (a) That the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (b) That there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the court could not, consistent with its duty, accept the decision of the other jurisdiction as fairly reached; or
- (c) That the misconduct established warrants substantially different discipline in this state.

Discipline elsewhere is res judicata, as SCR 114(5) also provides, "[i]n all other respects, a final adjudication in another jurisdiction that an attorney

has been guilty of misconduct conclusively establishes the misconduct for the purposes of a disciplinary proceeding in this state.”²

Handfuss has failed to provide any affidavits or other evidence to meet his burden of proving that any of the exceptions applies and that he should not be disbarred in Nevada. Consequently, we grant the petition. Handfuss shall be disbarred from the practice of law fifteen days after entry of this order and shall comply with the provisions of SCR 115.

It is so ORDERED.³

Becker, C. J.
Becker

Rose, J.
Rose

Maupin, J.
Maupin

Gibbons, J.
Gibbons

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

²SCR 114(1) requires attorneys licensed in this state to inform Nevada bar counsel if they are subjected to professional disciplinary action in another jurisdiction. On May 13, 2005, the bar received a letter from the director of the Office of Attorney Ethics of the New Jersey Supreme Court, informing the bar of Handfuss’s disbarment and enclosing an uncertified copy of the New Jersey order. Handfuss himself failed to notify the bar of his disbarment until June 8, 2005, when he responded to the bar’s attempts to contact him, over one month after his New Jersey disbarment.

³This is our final disposition of this matter. Any new proceedings concerning Handfuss shall be docketed under a different docket number.

cc: Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Robert J. Handfuss
Perry Thompson, Admissions Office, United State Supreme Court