

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF  
MARK R. EMMETT, ESQ.

No. 49066

FILED

APR 05 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Casella*  
DEPUTY CLERK

ORDER IMPOSING RECIPROCAL DISCIPLINE

This is a petition under SCR 114 to reciprocally discipline attorney Mark Emmett, based on his public reprimand in Utah. Emmett has not responded to the petition.<sup>1</sup>

Emmett was admitted to practice law in Nevada on December 31, 1979, and the petition does not suggest that he has been previously disciplined in Nevada. Emmett, however, is currently on administrative suspension for failure to pay his Nevada bar dues.

Emmett appears to reside in Utah and was publicly reprimanded by the Ethics and Discipline Committee of the Utah Supreme Court on November 3, 2006, for violating the equivalent of SCR 151 (competence), SCR 153 (diligence), SCR 154 (communication), SCR 155(1) (fees), and SCR 203(1) (misconduct).<sup>2</sup>

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<sup>1</sup>See SCR 114(3) (giving an attorney fifteen days to file a response to a reciprocal discipline petition).

<sup>2</sup>The Nevada Rules of Professional Conduct were amended, effective May 1, 2006. The former rules, however, apply in this matter. See Nevada Pay TV v. District Court, 102 Nev. 203, 205 n.2, 719 P.2d 797, 798 n.2 (1986), overruled on other grounds by State, Dep't Mtr. Veh. v Dist. Ct., 113 Nev. 1338, 948 P.2d 261 (1997).

According to the public reprimand findings, conclusion, and recommendation by the Utah Supreme Court's Ethics and Discipline Committee's screening panel, Emmett represented a client in a bankruptcy matter, which was dismissed due to Emmett's (1) failure to manage his caseload appropriately to enable him to competently provide the services he had agreed to provide; (2) failure to submit documents that were necessary to successfully proceed in the case; (3) failure to keep his client reasonably informed and to comply with his client's reasonable requests for information; and (4) charging his client for work not completed or completed without meaningful results. No aggravating or mitigating circumstances were detailed in the Utah findings and recommendation.

By order dated November 3, 2006, the Utah Ethics and Discipline Committee approved the screening panel's recommendation that Emmett be publicly reprimanded.

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) 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) 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) 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.”<sup>3</sup>

Emmett has failed to provide any affidavits or other evidence to meet his burden of proving that any of the SCR 114(4) exceptions apply and that he should not be publicly reprimanded in Nevada. Consequently, we grant the petition. Emmett is hereby publicly reprimanded for his ethical violations in Utah.<sup>4</sup>

It is so ORDERED.<sup>5</sup>

  
\_\_\_\_\_, C.J.

Maupin

  
\_\_\_\_\_, J.


Gibbons

  
\_\_\_\_\_, J.

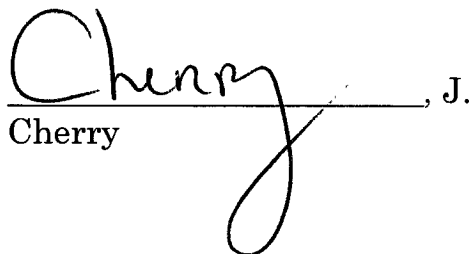
Hardesty

  
\_\_\_\_\_, J.


Parraguirre

  
\_\_\_\_\_, J.

Douglas

  
\_\_\_\_\_, J.

Cherry

  
\_\_\_\_\_, J.

Saitta

<sup>3</sup>SCR 114(1) requires attorneys licensed in this state to inform Nevada bar counsel if they are subjected to professional disciplinary action in another jurisdiction. Emmett failed to do so, thus violating SCR 114(1).

<sup>4</sup>See Matter of Discipline of Peirce, 122 Nev. 77, 128 P.3d 443 (2006) (imposing reciprocal discipline for misconduct penalized by the United States Patent and Trademark Office).

<sup>5</sup>This is our final disposition of this matter. Any new proceedings concerning Emmett shall be docketed under a different docket number.

cc: David A. Clark, Acting Bar Counsel  
Kimberly K. Farmer, Executive Director  
Mark R. Emmett