

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THOMAS C.
MICHAELIDES, ESQ., BAR NO. 5425.

No. 54789

FILED

SEP 07 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER IMPOSING PUBLIC REPRIMAND

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Thomas C. Michaelides receive a public reprimand for violations of RPC 1.1 (competence), RPC 1.3 (diligence), RPC 3.2 (expediting litigation), and RPC 3.4(c) (fairness to opposing party and counsel; knowingly disobey an obligation under the rules of a tribunal). See SCR 105(3)(b). We conclude that the recommended discipline is appropriate and that a public reprimand is warranted in this case.

BACKGROUND AND FACTS

Michaelides has a prior disciplinary history in Nevada. In 2003, he received a private reprimand for violating two rules of professional conduct (communication; failure to respond to disciplinary authority). In 2004, he again received a private reprimand for violating two rules of professional conduct (competence; responsibilities regarding nonlawyer assistants). In 2008, Michaelides received a letter of reprimand for violating four rules of professional conduct (fees; communication with person represented by counsel; three violations of unauthorized practice of law; three violations of failure to respond to disciplinary authority).

The facts in the instant case are undisputed. Michaelides represented the appellant in an appeal to this court in Docket No. 50834, docketed on January 3, 2008. Pursuant to the version of NRAP 14(b) in effect in 2008, Michaelides was required to file a docketing statement within 15 days after the appeal was docketed. Michaelides failed to timely file the docketing statement. Thus, on February 7, 2008, the clerk of this court issued a notice directing Michaelides to file the docketing statement within ten days. This notice warned Michaelides that failure to file the docketing statement “may result in the imposition of sanctions, including the dismissal of [the] appeal.” Wagoner v. Richards, Docket No. 50834 (Notice to File Docketing Statement, February 7, 2008). Michaelides again failed to file the docketing statement.

On March 14, 2008, this court issued an order conditionally imposing a \$500 sanction against Michaelides for failure to file the docketing statement. Id. (Order Conditionally Imposing Sanctions, March 14, 2008). The order noted that the conditional sanction would be automatically vacated if Michaelides filed and served the docketing statement or a motion for an extension of time within ten days of the order. Id. Michaelides also failed to comply with the March 14, 2008, order.

On April 17, 2008, this court entered an order noting that the \$500 sanction was still in effect. Id. (Order Regarding Sanctions, April 17, 2008). This order directed Michaelides to file and serve the docketing statement, as well as provide proof of payment of the \$500 sanction, within seven days of the order. Id. Michaelides submitted the docketing statement for filing in this court on October 16, 2008.

Subsequently, respondents in Docket No. 50834 filed a motion to dismiss the appeal based on Michaelides's procedural derelictions. On November 14, 2008, this court entered an order denying the motion to dismiss. Id. That order also directed the clerk to file Michaelides's docketing statement, directed Michaelides to file proof of payment of the \$500 sanction within 10 days of the order, and directed him to file and serve a transcript request form within 15 days of the order. This order was sent to Michaelides's SCR 79 address but was returned as "unclaimed, unable to forward."

After Michaelides failed to comply with the November 14, 2008, order, this court entered an order dismissing the appeal and referring Michaelides to the State Bar as a consequence of his repeated procedural failures. Id. (Order Dismissing Appeal and Referring Counsel to State Bar, January 23, 2009). The State Bar filed a complaint against Michaelides alleging that his actions, or inaction, in representing the appellant in Docket No. 50834 resulted in the violation of RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c).

At the disciplinary hearing, Michaelides offered mitigating testimony that his derelictions in Docket No. 50834 were due to the fact that one of his crucial employees had fallen ill and required out-of-state medical treatment. Michaelides further stated that he attempted to obtain a transcript in August 2008, and that the sanction payment had been inadvertently sent to an incorrect address.¹ However, Michaelides

¹The records of the Supreme Court Law Library indicate that it received a check from Michaelides in the amount of \$500 on December 22, 2008, as payment of the sanction imposed by this court. However, that
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acknowledged that his conduct violated RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c).

Based on Michaelides's undisputed conduct in representing the appellant in Docket No. 50834, the panel found that Michaelides violated RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c). The panel further found that Michaelides's misconduct in this matter was aggravated by his prior disciplinary history.² As to the recommended discipline, the panel recommended that Michaelides: (1) be issued a public reprimand for violating RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c); (2) be required to fulfill an additional ten CLE credit hours in ethics within one year of this court's order; (3) be required to hire an attorney, at his own expense and approved by bar counsel, to audit his law practice and report all findings to bar counsel, including recommendations to improve Michaelides's law practice, and be mandated to implement any recommendations approved by bar counsel; and (4) be required to pay the costs of the disciplinary proceedings within 30 days of receipt of the State Bar's bill of costs. This automatic review followed. Neither Michaelides nor the State Bar filed briefs in this matter; therefore, it was submitted for decision on the record without briefing or oral argument. SCR 105 (3)(b).

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check was subsequently returned due to insufficient funds. Michaelides then delivered a check in the amount of \$250 to the Supreme Court Law Library, which constitutes partial payment of the \$500 sanction.

²Although Michaelides stated that he has since paid the \$500 sanction ordered by this court in the underlying matter in full, a check of the court's records indicates that there is still \$250 outstanding.

DISCUSSION

Michaelides acknowledges that his conduct in representing the appellant in Docket No. 50834 violated RPC 1.1, RPC 1.3, RPC 3.2, and RPC 3.4(c).

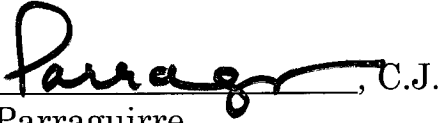
A decision of a panel of the Southern Nevada Disciplinary Board recommending a public reprimand is subject to automatic review by this court. SCR 105(3)(b). Although persuasive, the panel's findings and recommendations are not binding on this court. Matter of Discipline of Droz, 123 Nev. 163, 168, 160 P.3d 881, 884 (2007). "This court must review the record de novo and exercise its independent judgment to determine whether and what type of discipline is warranted." Id. at 168, 160 P.3d at 884-85 (quoting In re Stuhff, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992)). The panel's findings of misconduct must be supported by clear and convincing evidence. In re Drakulich, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

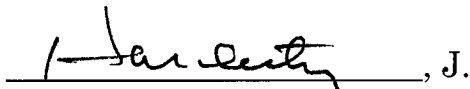
The panel's findings of misconduct are supported by clear and convincing evidence. Michaelides failed to follow the procedures of this court in his representation of the appellant in Docket No. 50834. Further, Michaelides failed to heed the numerous warnings issued by this court. As a result, the appeal in Docket No. 50834 was dismissed, Michaelides was referred to the State Bar for investigation, and a disciplinary panel found that his conduct violated several rules of professional conduct. Michaelides neither disputes the State Bar's allegations of misconduct, nor the disciplinary panel's findings of misconduct based on his procedural derelictions in Docket No. 50834.

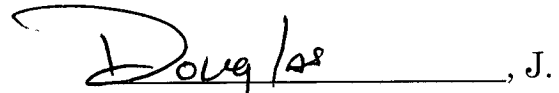
Accordingly, we hereby publicly reprimand attorney Thomas C. Michaelides for violations of RPC 1.1, RPC 1.3, RPC 3.2, and RPC

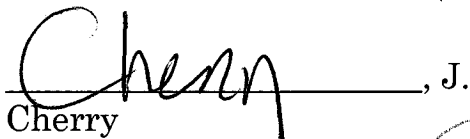
3.4(c). Michaelides shall comply with all of the other conditions recommended by the disciplinary panel. In addition, Michaelides shall pay the \$250 outstanding on the \$500 sanction imposed in Docket No. 50834 to the Supreme Court Law Library within 15 days from the date of this order.


It is so ordered.

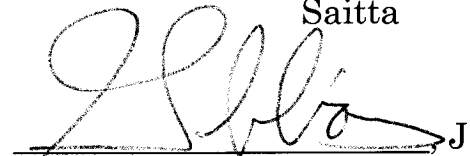

Parraguirre, C.J.


Hardesty, J.


Douglas, J.


Cherry, J.


Saitta, J.


Gibbons, J.

cc: Rob W. Bare, Bar Counsel
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Thomas Michaelides
Perry Thompson, admissions office, United States Supreme Court
Supreme Court Law Librarian