

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
ROBERT J. KOSSACK, ESQ., BAR NO.
2734.

No. 58388

FILED

MAY 24 2013

TRACIE K. ANDERMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF SUSPENSION

This is an automatic review, pursuant to SCR 105(3)(b), of a disciplinary board hearing panel's recommendation that attorney Robert J. Kossack be suspended from the practice of law for three years, subject to conditions.

The complaints giving rise to this matter involved the misappropriation of client funds by Kossack's nonlawyer staff. After a hearing on the matter, the disciplinary panel found that Kossack violated RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property), RPC 3.3 (responsibilities regarding nonlawyer assistants), and RPC 5.5 (unauthorized practice of law).


The panel recommended Kossack be suspended from the practice of law for three years, with the conditions that (1) Kossack be required to take and pass the MPRE prior to applying for reinstatement; (2), if reinstated, Kossack enter into a mentoring agreement with a mentor approved by the state bar for two years, with the mentor making quarterly written reports to bar counsel regarding Kossack's practice; and (3) Kossack pay the costs of the disciplinary proceedings. To this court, Kossack argued that he should not be suspended, while the state bar argued that this court should adopt the panel's recommendation.

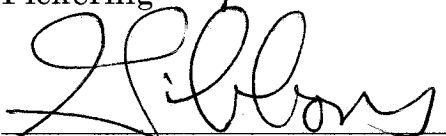
Having reviewed the briefs and the record, we approve the panel's recommendation that Kossack be suspended subject to conditions. However, in weighing Kossack's disregard of the responsibilities of running a legal practice and supervising his staff against the fraudulent and well-concealed conduct of his staff, we determine that a shorter period of suspension is appropriate. Further, while conditions are appropriate, we determine that the panel's recommended conditions require modification to better protect the public. We therefore reject the recommended suspension term of three years and instead direct that Kossack be suspended for 18 months, with the conditions that (1) Kossack be required to take and pass the MPRE prior to applying for reinstatement; (2) if reinstated, Kossack shall enter into a two-year mentoring agreement with a mentor approved by the state bar; the mentor shall have access to and control over Kossack's trust account, and the mentor shall make quarterly written reports to bar counsel regarding Kossack's law practice and trust account; (3) if reinstated, Kossack's mentor shall determine whether Kossack shall (a) complete a substance abuse evaluation and comply with any recommendations or (b) participate in the Lawyers Concerned for Lawyers program¹; (4) if reinstated, in addition to the customary required annual CLE, in his first year of reinstatement, Kossack shall complete four CLE credits in ethics and six CLE credits in accounting, trust account management, and/or law practice management; and (5) Kossack shall pay the costs of the disciplinary proceedings before applying for reinstatement.

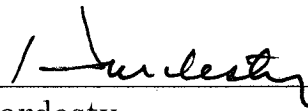
¹Alternatively, if, along with any petition for reinstatement, Kossack provides evidence that he has passed a drug test within the 30 days prior to the petition being filed, this requirement may be waived.

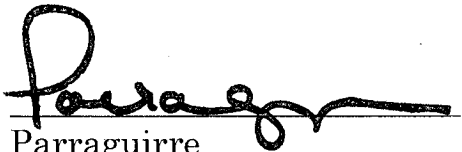
Accordingly, we hereby suspend Robert K. Kossack from the practice of law for 18 months from the date of this order. In addition, Kossack must comply with the conditions set forth above.

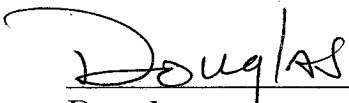
It is so ORDERED.

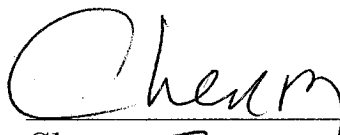

_____, C.J.
Pickering

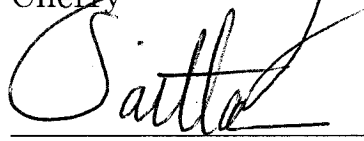

_____, J.
Gibbons


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Cherry


_____, J.
Saitta

cc: Jeffrey R. Albregts, Chair, Southern Nevada Disciplinary Board
David Clark, Bar Counsel
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Robert J. Kossack
Perry Thompson, Admissions Office, United States Supreme Court