

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF HAMILTON D.
MOORE.

No. 36700

FILED

NOV 30 2000

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

ORDER OF SUSPENSION

This is an automatic appeal from a decision by a hearing panel of the Southern Nevada Disciplinary Board.¹ The panel found that Moore was guilty of one violation of SCR 151 (competence), for failing to file a complaint on behalf of a client before the statute of limitations expired. In addition, the panel found that Moore was guilty of seven violations of SCR 165 (safekeeping property) and SCR 203(3) (misconduct involving dishonesty, fraud, misrepresentation or deceit), for misappropriating client and third-party funds in order to operate his law practice.

The panel recommended that attorney Hamilton D. Moore be suspended for a period of three years, and that Moore actually serve one month of the suspension, with the remaining two years and eleven months to be stayed subject to several conditions, as follows: (1) Moore would participate in a mentorship for one year, focusing on financial management and procedures, with quarterly reports to bar counsel; (2) Moore would be required to submit quarterly accounting reports, including the general ledgers for his general and trust accounts, during the full three-year term of suspension; (3)

¹We direct the clerk of this court to amend the caption on this court's docket so that it is consistent with the caption on this order.

Moore would be required to pass the Multi-State Professional Responsibility Examination within one year, and submit proof of passage to bar counsel; (4) Moore would be required to complete restitution payments to the clients and third-parties whose funds were misappropriated, including interest at the statutory rate; (5) Moore would continue his efforts to locate the Kemps, clients whose funds were misappropriated but who could not be located, and place the funds in a custodial account through the Public Guardian pending location of the Kemps; (6) Moore would be required to notify his clients of the terms of his suspension and provide proof of service to bar counsel; (7) Moore would be required to pay the costs of the disciplinary proceeding within thirty days; and (8) the hearing panel would have continuing jurisdiction over Moore during the full three-year term of the suspension.


Although the recommendations of the disciplinary panel are persuasive, this court is not bound by the panel's findings and recommendation, and must examine the record anew and exercise independent judgment. See *In re Kenick*, 100 Nev. 273, 680 P.2d 972 (1984).


We conclude that clear and convincing evidence supports the panel's findings. See SCR 105(2)(e). Misconduct involving misappropriation of client funds ordinarily suggests more severe discipline than has been recommended here. See, e.g., *In re French*, 47 Nev. 469, 225 P. 396 (1924). However, several mitigating circumstances were shown by clear and convincing evidence. First, Moore has no previous discipline problems whatsoever in his twenty years of practice. Also, Moore did not use the misappropriated funds for his personal use. Next, Moore made prompt restitution to the clients harmed by his conduct, even before the commencement of these disciplinary proceedings. In addition, Moore fully cooperated

with bar counsel, acknowledged his responsibility for the ethical violations, and expressed sincere remorse for his actions. Finally, several members of the bar and community expressed their support of Moore, despite their knowledge of his actions.

We conclude that in light of the mitigating circumstances and the remedial probationary conditions recommended by the panel, the recommended discipline is appropriate. Accordingly, we approve the panel's recommendation, as stated above, in its entirety.

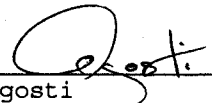
It is so ORDERED.

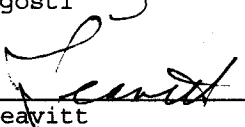

_____, C.J.
Rose

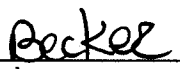

_____, J.
Young


_____, J.
Maupin


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Leavitt


_____, J.
Becker

cc: Richard Pocker, Chair,
Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Wayne Blevins, Executive Director
Beckley Singleton Jemison Cobeaga & List
Dee Shore, Admissions Office, U.S. Supreme Court