


IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 87485

FILED

FEB 09 2014

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER REJECTING CONDITIONAL GUILTY PLEA AGREEMENT  
AND REMANDING*

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea in exchange for a stated form of discipline for attorney Thomas C. Michaelides. Under this agreement, Michaelides admitted to violating RPC 1.16(a)(1) and (d) (terminating representation), RPC 3.3(a)(1) and (b) (candor toward the tribunal), RPC 3.4(c) (fairness to opposing party and counsel), RPC 5.3(c) (candor toward the tribunal & responsibilities regarding nonlawyer assistants), RPC 8.4(d) (misconduct), and & SCR 115 (notice of change in license status). The agreement provides for a 30-month suspension, consisting of 12 months of actual suspension followed by a stayed suspension of 18 months during which Michaelides will be on probation and subject to certain conditions.

Michaelides has admitted to the facts supporting the violations. The record therefore establishes that Michaelides failed to notify the district court and take appropriate remedial actions when Michaelides' non-lawyer employee made a court appearance by remote audio purporting to be Michaelides, failed to notify his client of the continued hearing date for his case, causing the client to miss that hearing and resulting in a delay of his divorce case, and failed to timely comply with SCR 115's notice provisions

concerning his suspension in Docket No. 83876.<sup>1</sup> The record therefore also establishes that Michaelides committed some of these acts while this court was considering discipline for similar misconduct and the others immediately after this court suspended him for that misconduct. *See In re Discipline of Michaelides*, No. 83876, 2022 WL 510003 (Nev. Feb. 18, 2022) (Order of Suspension).

In determining the appropriate discipline, we weigh four factors: “the duty violated, the lawyer’s mental state, the potential or actual injury caused by the lawyer’s misconduct, and the existence of aggravating or mitigating factors.” *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008). In this case, Michaelides knowingly violated duties owed to the legal system by failing to disclose his assistant’s misrepresentation to the court and take appropriate remedial measures. He also knowingly violated duties owed to the profession by violating the terms of his stayed suspension by filing an affidavit with this court which falsely asserted that he had complied with SCR 115’s notice requirements concerning that suspension. Michaelides’ misconduct caused injury to both his client and to the integrity of the profession.

The baseline sanction for the misconduct at issue, before considering aggravating and mitigating circumstances, is suspension. *See Standards for Imposing Lawyer Standards, Compendium of Professional Responsibility Rules and Standards*, Standard 6.12 (Am. Bar Ass’n 2017)

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<sup>1</sup>On February 18, 2022, this court imposed a 24-month suspension, consisting of 6 months’ actual suspension followed by a stayed suspension of 18 months during which Michaelides was required to comply with various terms, including that he engage in no further misconduct which would result in new disciplinary charges. *In re Discipline of Michaelides*, No. 83876, 2022 WL 510003 (Nev. Feb. 18, 2022) (Order of Suspension).

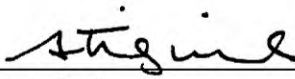
(*Standards*) (providing that suspension is appropriate when an attorney knows that a false statement has been made to the court “and [he] takes no remedial action, and causes injury or potential injury to a party to the legal proceeding”); *see also id.* at Standard 7.2 (“Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.”); *id.* at Standard 8.2 (“Suspension is generally appropriate when a lawyer has been reprimanded for the same or similar misconduct and engages in further similar acts of misconduct that cause injury or potential injury to the client, the public, the legal system, or the profession.”). Turning to the aggravating and mitigating circumstances, we conclude that the agreed-upon discipline fails to adequately consider the aggravating circumstances. As to the four agreed-upon aggravating circumstances (prior disciplinary offenses, a pattern of misconduct, multiple offenses, and substantial experience in the law), Michaelides’ prior disciplinary history involved misconduct similar to that admitted here—most notably candor toward the tribunal and responsibilities toward nonlawyer assistants—and the current admitted misconduct occurred while he was awaiting discipline. Moreover, the agreed-upon discipline does not acknowledge or consider whether Michaelides’ act of filing a false SCR 115 affidavit with this court violated the suspension order in Docket No. 83876.


For these reasons, we are not convinced that the agreed-upon discipline is sufficient to serve the purpose of attorney discipline—to protect the public, the courts, and the legal profession. *See State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988). Thus, we reject the conditional guilty plea agreement and remand this matter for further proceedings. *See* SCR 113(1) (“The tendered [conditional guilty] plea is

subject to final approval or rejection by the supreme court if the stated form of discipline includes disbarment or a suspension.”).

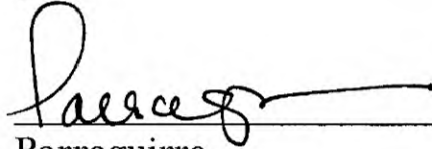
It is so ORDERED.<sup>2</sup>

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

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

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

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

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

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

cc: Chair, Southern Nevada Disciplinary Board  
Glenn Machado  
Rob W. Bare  
Bar Counsel, State Bar of Nevada

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<sup>2</sup>The Honorable Kristina Pickering, Justice, voluntarily recused herself from participation in the decision of this matter.