

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF LEE E.
WALKER, ESQ.

No. 38152

FILED

DEC 06 2001

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

ORDER OF SUSPENSION

This is an automatic appeal from a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Lee E. Walker be suspended from the practice of law for three years, based on two felony convictions in Utah.

In October 1998, Walker was convicted in Utah of one count of securities fraud and one count of money laundering, both felonies under Utah law. The convictions were based on Walker's association with two individuals who perpetrated an investment fraud. The record reflects that Walker did not have actual knowledge that the investment was fraudulent, but that he allowed his trust account to be used to facilitate the transaction. Also, Walker vouched for the credibility of one of the other individuals, and the jury apparently concluded that the victim relied on this statement. Walker did not receive any money or other benefit as a result of his involvement.

The record also demonstrates that at the sentencing hearing, the Utah court noted that Walker was the least culpable of the defendants. In January 1999, the Utah court stayed the imposition of a jail sentence and ordered that Walker be placed on supervised probation for thirty-six months, that he pay \$100,000 in restitution, and that he be prohibited from participating in any transactions or business activities involving the offer or sale of securities to any third person during the probationary period. Walker was released from probation early, and his convictions were reduced by one degree, apparently to lesser degree felonies. Walker's appeal from his convictions was still pending in the Utah appellate court at the time of the disciplinary hearing.

01-20491

On March 25, 1999, we temporarily suspended Walker under SCR 111,¹ and referred this matter to the Southern Nevada Disciplinary Board for the commencement of formal disciplinary proceedings. The panel found that Walker had violated SCR 203(2) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects) and SCR 203(3) (misconduct involving dishonesty, fraud, deceit or misrepresentation). The panel recommended that Walker be suspended for three years, beginning from the date of his temporary suspension, that he pay the costs of the disciplinary proceeding, and that he be required to present evidence concerning the status of his Utah criminal appeal at any future reinstatement hearing. The recommendation is based on a stipulation reached by Walker and bar counsel, with minor amendments by the hearing panel.

We conclude that clear and convincing evidence supports the violations found by the panel.² We further conclude that the recommended discipline is appropriate in light of the mitigating circumstances demonstrated by the record. Accordingly, we suspend Walker for a period of thirty-six months, to run from the date of his temporary suspension.³ In addition, Walker must pay the costs of the

¹SCR 111(1) provides, in pertinent part:

Upon the filing with the supreme court of a certificate of conviction demonstrating that an attorney has been convicted of a serious crime, as defined in this rule, . . . the court shall enter an order suspending the attorney, regardless of the pendency of an appeal, pending final disposition of a disciplinary proceeding, which shall be commenced by the appropriate disciplinary board upon notice of conviction.


SCR 111(2) provides that all felonies are included within the definition of "serious crime."

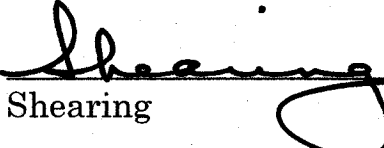
²See In re Stuhff, 108 Nev. 629, 635, 837 P.2d 853, 856 (1992) (holding that ethical violations must be shown by clear and convincing evidence).

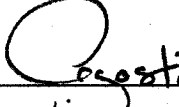
³Under SCR 115(3), the temporary suspension was effective fifteen days after the date of our order, or April 9, 1999. Accordingly, Walker's suspension will terminate on April 9, 2002.


disciplinary proceeding. Finally, at any future reinstatement hearing,⁴ Walker must present evidence concerning the status of his criminal appeal.


It is so ORDERED.⁵


 _____, C.J.
Maupin

 _____, J.
Shearing

 _____, J.
Agosti

 _____, J.
Rose

 _____, J.
Leavitt

 _____, J.
Becker

cc: Richard J. Pocker, Chair,
Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Perry Thompson, Admissions Office, U.S. Supreme Court
Swanson-Flangas, L.L.C.

⁴See SCR 116(1) and (3) (providing that when a suspension is for more than six months, the lawyer must petition for reinstatement, and must demonstrate that he or she has the moral qualifications, competency, and learning in law required for admission to practice law in this state, and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar, the administration of justice, or the public interest).

⁵This is our final disposition of this matter. Any new proceedings concerning Walker shall be docketed under a new docket number.

The Honorable Cliff Young, Justice, voluntarily recused himself from participation in the decision of this matter.