

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF ANITA M.
CIONNI.

No. 38327

FILED

JAN 09 2002

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

ORDER OF DISBARMENT

This is an automatic appeal from a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Anita M. Cionni be disbarred. The panel's recommendation was based on its finding that Cionni engaged in misconduct while representing an estate.

First, the panel found that Cionni's conduct violated SCR 151 (competence), by (1) failing to recognize that, under NRS 143.170, the executrix could not buy property from the estate, (2) failing to provide an adequate billing statement in support of her claimed fees, and (3) failing to obtain court approval of her attorney fees under NRS 150.060 before requiring payment from the estate.

Second, the panel found that Cionni violated SCR 153 (diligence), by failing to file a timely annual accounting for the estate, as required by NRS 150.105, and by failing to place certain estate funds in a blocked account, as ordered by the probate commissioner.

Third, the panel found that Cionni violated SCR 173(3) (fairness to opposing party and counsel), by ignoring a citation to appear,

evading service, and failing to petition for fees before accepting payment, and for leaving the estate's affairs in "disarray," thus requiring more work by the estate's successor counsel and incurring more fees for the estate.

Fourth, the panel found that Cionni violated SCR 203(3) (misconduct involving dishonesty, fraud, deceit or misrepresentation) and SCR 203(4) (conduct prejudicial to the administration of justice), by accepting payment for her attorney fees before they were approved by the court, and for failing to justify the amount of fees she was paid.

The panel dismissed charges that Cionni had violated SCR 79 (address of member), SCR 154 (communication), and SCR 165 (safekeeping property).

As an aggravating factor, the panel found that Cionni was aware of the formal hearing, but failed to attend or participate, declined to appear by telephone, and did not seek a continuance. The panel also found that Cionni exhibited no remorse for her misconduct, and considered this as another aggravating factor. Based on the violations and the aggravating factors, the panel recommended that Cionni be disbarred. Cionni did not file an opening brief or otherwise communicate with this court to challenge the panel's recommendation.

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.¹ Having reviewed the record in this matter, we conclude that most of the violations found by the panel are supported by

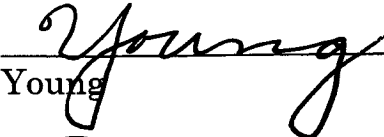
¹In re Kenick, 100 Nev. 273, 680 P.2d 972 (1984).

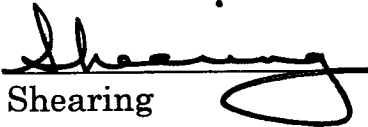
clear and convincing evidence.² We disregard the violation of SCR 203(4), as no such violation was charged in the disciplinary complaint.³ We nevertheless conclude that the recommended discipline is appropriate.


Accordingly, Cionni is disbarred, and shall pay the costs of the disciplinary proceeding. Cionni and the state bar shall comply with the notice provisions of SCR 115.


It is so ORDERED.



_____, C.J.
Maupin


_____, J.
Young


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Rose


_____, J.
Leavitt


_____, J.
Becker

²See In re Stuhff, 108 Nev. 629, 635, 837 P.2d 853, 856 (1992) (providing that the standard of proof in bar discipline proceedings is clear and convincing evidence).

³See In re Discipline of Schaefer, 117 Nev. ___, 25 P.3d 191, as modified by 31 P.3d 365 (2001).

cc: Richard J. Pocker, Chair,
Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Perry Thompson, Admissions Office,
Supreme Court of the United States
Anita M. Cionni