

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
PAUL ALAN SCHELLY, ESQ.

No. 54185

FILED

JUN 22 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF INJUNCTION

This is an automatic review, pursuant to SCR 105(3)(b), of the Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Paul Alan Schelly be suspended from practicing law in Nevada or appearing as counsel before any court in Nevada for a period of six months and one day, that Schelly be assessed the costs of the disciplinary proceeding, and that the State Bar use its best efforts to report this court's final order to the National Discipline Data Bank and the State Bar of California.¹ The panel's recommendation was based on its conclusion that Schelly violated RPC 3.4(c) (fairness to opposing party and counsel—knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation

¹Schelly was, at all times pertinent to this matter, licensed to practice law in California. At no time pertinent to this matter was Schelly a licensed attorney in Nevada. This court has jurisdiction to impose discipline upon Schelly, despite the fact he was, and is not, a member of the State Bar of Nevada. See SCR 99(1); Waters v. Barr, 103 Nev. 694, 697-98, 747 P.2d 900, 902 (1987); Matter of Discipline of Droz, 123 Nev. 163, 167-68, 160 P.3d 881, 884 (2007).

exists) and RPC 8.1(b) (bar admission and disciplinary matters).² To date, Schelly has neither filed an opening brief in this matter nor expressed any intention to contest the panel's findings and recommendation in this court. Similarly, no opening brief has been filed by the State bar pursuant to SCR 105(3)(b), thus, this matter shall stand submitted on the record. See SCR 105(3)(b).

On April 22, 2010, this court entered an order directing the parties to file briefs addressing the specific issue of whether the recommended suspension is appropriate under the instant circumstances where Schelly is not, and was not, a member of the Nevada bar, and if a suspension is not appropriate, what, if any, alternate form of discipline is proper. The State Bar has filed a brief in response to the order. To date, Schelly has failed to respond to the order.

The State Bar's brief informed this court that subsequent to the hearing panel issuing its recommended discipline in this matter, Schelly was disbarred from the practice of law in the state of California by order dated November 24, 2009. In re Paul Alan Schelly, Case No. 05-O-00181 (Order of Disbarment, November 24, 2009). As such, Schelly is not eligible to petition the California State Bar for reinstatement until five years after the effective date of his disbarment, see Rule of Procedure of the State Bar of California 662(b), and likely would not be able to practice law in Nevada or appear before any Nevada court during his period of disbarment. See SCR 51(1)(f); SCR 42(2)(e). In light of these facts, the State Bar has amended the hearing panel's recommended discipline, in

²A charge of violating RPC 5.5 (unauthorized practice of law) was dismissed by the State Bar for insufficient evidence.

part. The State Bar now recommends instead of a suspension, that Schelly be enjoined from practicing law in Nevada and from appearing in any Nevada court, with no possibility that the injunction can be lifted, until he is able to be reinstated to the practice of law in California. The State Bar further recommends that Schelly be required to petition this court to lift the injunction before he can practice law in Nevada or appear in any Nevada court.


After reviewing the record, we conclude that clear and convincing evidence supports the panel's findings. The record indicates that during the course of a bankruptcy proceeding in the United States Bankruptcy Court for the District of Nevada, Schelly failed to comply with that court's procedural rules or to otherwise communicate with that court. Further, Schelly failed to comply with the sanction order that court imposed on him for those failures.³ Subsequently, Schelly failed to communicate with the State Bar in the underlying matter and despite proper notice, failed to appear at the disciplinary panel hearing.

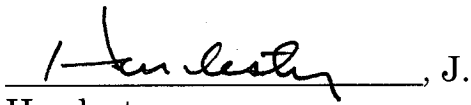
Accordingly, we approve the panel's recommendation, as amended by the State Bar, in its entirety. Schelly is hereby enjoined from practicing law in Nevada or appearing as counsel before any tribunal in Nevada until he is able to be reinstated to the practice of law in the state of California. See Droz, 123 Nev. at 168-69, 160 P.3d at 885. Schelly is required to petition this court to lift the injunction prior to being eligible to practice law in Nevada or appear in any Nevada court. Schelly shall pay the costs of the disciplinary proceedings within 30 days of receipt of the

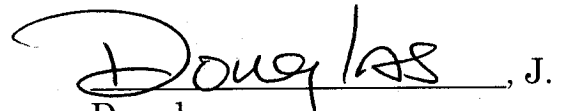
³The record does not indicate whether Schelly has yet complied with the bankruptcy court's sanction order.

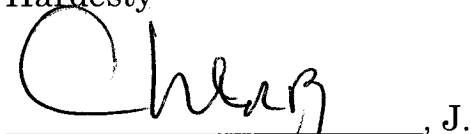
Nevada State Bar's bill of costs. SCR 120. Finally, the Nevada State Bar shall use its best efforts to report this court's order to the National Discipline Data Bank and to the State Bar of California.

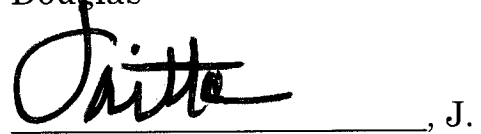
It is so ORDERED.⁴


Parraguirre, C.J.

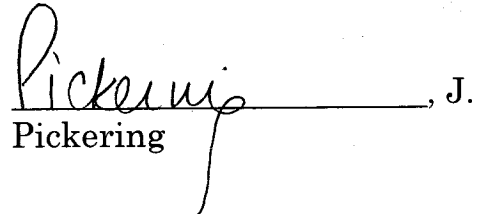

Hardesty, J.


Douglas, J.


Cherry, J.


Saitta, J.


Gibbons, J.


Pickering, J.

cc: Jeffrey R. Albregts, Chair, Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Kimberly K. Farmer, Executive Director
Paul Alan Schelly, Esq.
Perry Thompson, Admissions Office, U.S. Supreme Court

⁴This is our final disposition of this matter. Any new proceedings concerning Schelly shall be docketed under a new docket number.