

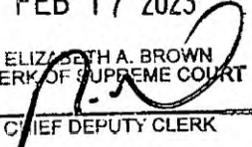
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF  
LEILA L. HALE, BAR NO. 7368.

No. 84918

FILED

FEB 17 2023

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

*ORDER OF PUBLIC REPRIMAND*

In this matter, the State Bar challenges a Southern Nevada Disciplinary Board decision to issue attorney Leila L. Hale a letter of caution for two violations of RPC 1.15(e) (safekeeping property) and one violation of RPC 1.16(d) (declining or terminating representation). The State Bar also challenges the hearing panel's conclusions that Hale did not violate RPC 1.2 (scope of representation and allocation of authority between client and lawyer) or RPC 1.5 (unreasonable fee). We agree with the violations found by the hearing panel but conclude that a public reprimand is the appropriate discipline in this case after considering the relevant factors. *See* SCR 105(3)(b) (addressing this court's review of decisions of a State Bar hearing panel).

The State Bar has the burden of showing by clear and convincing evidence that Hale committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). We defer to the panel's factual findings that are supported by substantial evidence and are not clearly erroneous. SCR 105(3)(b); *In re Discipline of Colin*, 135 Nev. 325, 330, 448 P.3d 556, 560 (2019).

The State Bar argues that Hale violated RPC 1.2(a), which provides that "[a] lawyer shall abide by a client's decision whether to settle a matter," because her retainer agreement included language that the

“Client agrees to accept a reasonable settlement offer if recommended by the Firm.” But substantial evidence supports the hearing panel’s findings that Hale did not use this provision to force a settlement on the client identified in the underlying grievance. Indeed, the record contains no evidence that the client felt pressured to accept the settlement because of the retainer agreement’s language. We therefore agree with the hearing panel that Hale did not violate RPC 1.2.<sup>1</sup>

The State Bar also argues that Hale violated RPC 1.5(a), which prohibits attorneys from charging or collecting an unreasonable fee, based on language in her retainer agreement regarding payment of fees following the client’s termination of Hale. The record, however, supports the hearing panel’s conclusion that Hale did not use that provision to collect an unreasonable fee in the matter at issue. We therefore agree with the hearing panel that Hale did not violate RPC 1.5.

The State Bar also challenges the hearing panel’s decision that a letter of reprimand is the appropriate discipline based on Hale’s violations of RPC 1.15 (safekeeping property) and RPC 1.16 (declining or terminating representation) and instead seeks a suspension. To determine 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). The panel’s recommendation is persuasive, but we review the disciplinary

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<sup>1</sup>Hale argues, as to both RPC 1.2 and RPC 1.5, that she lacked the requisite mens rea. Neither rule contains a scienter requirement. Compare RPC 1.2(a) (“A lawyer shall abide by a client’s decision whether to settle a matter.”), and RPC 1.5(a) (providing that “[a] lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses”), with RPC 3.3 (prohibiting an attorney from “knowingly” taking certain actions).

recommendation de novo. SCR 105(3)(b); *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). When multiple violations are at issue, “[t]he ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct.” Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, 452 (Am. Bar Ass’n 2018) (ABA Standards).

Hale’s violations of RPC 1.15 are based on her prematurely taking attorney fees from client funds held in trust and failing to promptly disburse the remaining funds held in trust after negotiating all the relevant medical liens. The violation of RPC 1.16 is based on Hale’s continued failure to disburse remaining settlement funds after the client terminated her. The panel concluded that Hale acted knowingly, but that she caused little to no actual or potential harm. It found, based on the parties’ stipulation, two aggravating factors (prior disciplinary offenses and substantial experience in the practice of law) and four mitigating factors (full and free disclosure to disciplinary authority or cooperative attitude toward disciplinary proceeding, character or reputation, imposition of other penalties or sanctions, and remorse). The panel then applied ABA Standard 4.14—which provides that “[a]dmonition is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client”—to determine that a letter of caution, Nevada’s equivalent to an admonition, was appropriate. ABA Standards, Standard 4.14.

We conclude that the most serious violation is Hale’s failure to safekeep property, a violation of RPC 1.15(a). We further conclude that she acted negligently, rather than with knowledge, and that her actions violated duties owed to her clients and to the profession. We agree with the State Bar that Hale caused actual injury with the potential for further injury

because her misconduct deprived her client of access to and use of funds to which the client was entitled for more than two years. *See, e.g., In re Obert*, 282 P.3d 825, 842-43 (Or. 2012) (concluding that the failure to disburse funds injured the client by causing “anxiety and aggravation” as well as “actual, financial harm”). For negligent handling of a client’s property causing injury or potential injury, the baseline discipline is a public reprimand. *See* ABA Standard 4.13 (recommending a reprimand when an attorney acts negligently in safekeeping a client’s property and causes injury or potential injury). The aggravating and mitigating factors do not warrant deviating from that baseline.<sup>2</sup>

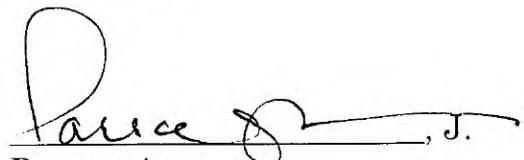
Accordingly, we hereby publicly reprimand attorney Leila L. Hale for violating RPC 1.15 (safekeeping property) and RPC 1.16 (terminating or declining representation) by failing to promptly disburse client funds. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

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

Herndon

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

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

cc: Chair, Southern Nevada Disciplinary Board  
Reisman Sorokac  
Rob W. Bare  
Bar Counsel, State of Nevada  
Executive Director, State Bar of Nevada  
Admissions Office, U.S. Supreme Court

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<sup>2</sup>We decline the State Bar’s invitation to find that Hale acted with a dishonest or selfish motive as the State Bar presented no evidence regarding this aggravating factor below.