

STATE BAR OF NEVADA



April 6, 2020

Crystal Lyn Eller, Esq.
104 S. Jones Blvd.
Las Vegas, NV 89107

LETTER OF REPRIMAND

Re: Grievance OBC19-1253

Dear Ms. Eller:

On March 24, 2020, a Screening Panel of the Southern Nevada Disciplinary Board considered the above-referenced grievance. Based on the evidence presented, the Panel concluded that you violated the Rules of Professional Conduct ("RPC") and should be issued a Letter of Reprimand. This letter shall constitute a delivery of that reprimand.

On or about September 12, 2019, you were retained by Adriana Cusinato (hereinafter "Ms. Cusinato") to assist her in obtaining excess proceeds from the foreclosure sale of her property. RPC 1.5 (Fees) states, in pertinent part, that a lawyer "shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses." Your contract would have entitled you to 16.5% (\$12,328.44) of the excess proceeds recovered. Receiving \$12,328.44 for, at most, two weeks of work constitutes an unreasonable fee. Under ABA Standard 7.3, reprimand is generally appropriate when a lawyer negligently 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. This type of ethical breach could have caused potential injury to Ms. Cusinato, the public, as well as the legal profession.

Rule 5.4 (Professional Independence of a Lawyer) states that unless one of five narrow exceptions are applicable, a lawyer or law firm "shall not share legal fees with a nonlawyer." Your contract states that "disbursements will be made to Attorney, Client, and Calnex Enterprises, Inc in accordance with agreements between Client & Attorney and Client & Calnex Enterprises, Inc." Since none of the exceptions apply, you cannot share legal fees with Calnex Enterprises, Inc. (hereinafter "Calnex") as they are non-lawyers. Under ABA Standard 7.3, reprimand is generally appropriate when a lawyer negligently 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. This type of ethical breach could have caused potential injury to Ms. Cusinato, the public, as well as the legal profession.

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Rule 7.3 (Solicitation of Clients) states, in pertinent part, that a lawyer “shall not solicit professional employment from a client with whom the lawyer has no family or prior professional relationship, by mail, in person or otherwise, when a significant motive for the lawyer’s doing so is the lawyer’s pecuniary gain.” The term “solicitation” denotes a communication initiated by or on behalf of a lawyer or law firm that is directed to a specific person the lawyer knows or reasonable should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter. You concede that you and Calex were in a business relationship wherein Calex researches and obtains the clients, and you do the legal work. Calex contacted Ms. Cusinato and sent her legal documents for her to sign, which included your “Attorney Engagement Agreement” and “Power of Attorney”. Ms. Cusinato did not speak to you, or your associate, prior to signing those documents. Under ABA Standard 7.3, reprimand is generally appropriate when a lawyer negligently 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. This type of ethical breach could have caused potential injury to the public, as well as the legal profession.

RPC 8.4 (Misconduct), in pertinent part, states that it is professional misconduct for a lawyer to “violate or attempt to violate the RPC, knowingly assist or induce another to do so, or do so through the acts of another.” By engaging in the aforementioned conduct, you violated several Rules of Professional Conduct. Under ABA Standard 7.3, reprimand is generally appropriate when a lawyer negligently 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. This type of ethical breach could have caused potential injury to Ms. Cusinato, the public, as well as the legal profession.

Accordingly, you are hereby **REPRIMANDED** for violating RPC 1.5 (Fees), RPC 5.4 (Professional Independence of a Lawyer), RPC 7.3 (Solicitation of Clients), and RPC 8.4 (Misconduct). In addition, pursuant to Supreme Court Rule 120(3), you are required to remit to the State Bar of Nevada the amount of \$1,500 *within 30 days* of this Letter. I trust that this reprimand will serve as a reminder to you of your ethical obligations, and that no such problems will arise in the future.

DATED this 6th day of April, 2020.

Dana P. Oswalt

Dana P. Oswalt (Apr 6, 2020)

Dana Oswalt, Esq.
Screening Panel Chair
Southern Nevada Disciplinary Board






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Final Audit Report

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