



FILED

Dec. 30, 2020

THE BOARD OF DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS

IN THE MATTER OF §
SHASTA MARIE NOLTE, § CAUSE NO. 65078
STATE BAR CARD NO. 24071455 §

AGREED JUDGMENT OF PROBATED SUSPENSION

On this day, the above-styled and numbered reciprocal disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner appeared by attorney and Respondent appeared in person as indicated by their respective signatures below and announced that they agree to the findings of fact, conclusions of law and orders set forth below solely for the purposes of this proceeding which has not been fully adjudicated. The Board of Disciplinary Appeals, having reviewed the file and in consideration of the agreement of the parties, is of the opinion that Petitioner is entitled to entry of the following findings and orders:

Findings of Fact. The Board of Disciplinary Appeals finds that:

- (1) Respondent, Shasta Marie Nolte, Bar Card No. 24071455, is an attorney who is licensed and authorized to practice law in the State of Texas.
- (2) On or about August 4, 2020, an Agreement for Discipline by Consent was entered by the State Bar of Arizona in a case styled: *In the Matter of a Member of the State Bar of Arizona, Shasta Marie Nolte, Bar No. 030368, in Case No. PDJ 2020 9064, State Bar File No. 19-0705*, which states in pertinent part:

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation. Respondent conditionally admits that she violated Rule 42, Ariz. R. Sup. Ct., specifically ER 1.2, ER 1.3, ER 1.4, ER 1.5(b), ER 3.1, ER 5.1, and ER 8.4(d).

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: Reprimand with Probation for two (2) years, the terms of probation which will consist of:

1. LOMAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order.

Respondent shall submit to a LOMAP examination of their office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

2. CLE: In addition to annual MCLE requirements, Respondent shall complete three (3) hours of Continuing Legal Education ("CLE") program(s) regarding fee agreements, to be approved by Bar Counsel, during the term of probation. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program(s) by providing a copy of handwritten notes and certificate of completion. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE.

Respondent shall commit no further violations of the Rules of Professional Conduct.

(3) On or about August 10, 2020, a Final Judgment and Order was entered by the State Bar of Arizona in a case styled: In the Matter of a Member of the State Bar of Arizona, Shasta Marie Nolte, Bar No. 030368, in Case No. PDJ 2020 9064, State Bar File No. 19-0705, which states in pertinent part:

IT IS ORDERED Respondent, SHASTA MARIE NOLTE, Bar No. 030368, is reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED Respondent is placed on probation for a period of two (2) years. The terms of probation are:

- a) Law Office Member Assistance Program (LOMAP): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of this Order. Respondent shall submit to a LOMAP examination of their office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent shall be responsible for any costs associated with LOMAP.
- b) Continuing Legal Education (CLE): In addition to annual MCLE requirements, Respondent shall complete three (3) hours of Continuing Legal Education ("CLE") program(s) regarding fee agreements within the term of probation. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of

the program(s) by providing a copy of handwritten notes and certificate of completion. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent shall be responsible for the cost of the CLE.

Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within thirty (30) days from the date of this Order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

- (4) In the Agreement for Discipline by Consent, Respondent conditionally admitted violating the following Arizona Rules of Professional Conduct while employed with her former law firm and in connection with her representation of a client in a name change and child custody/visitation matter:

ER 1.2 Scope of Representation and Allocation of Authority between Client and Lawyer

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

ER 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

ER 1.4 Communication

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in ER 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) In a criminal case, a lawyer shall promptly inform a client of all proffered plea agreements.

ER 1.5(b) Fees

The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated in writing before the fees or expenses to be billed at higher rates are actually incurred. The requirements of this subsection shall not apply to:

(1) court-appointed lawyers who are paid by a court or other governmental entity, and

(2) lawyers who provide pro bono short-term limited legal services to a client pursuant to ER 6.5.

ER 3.1 Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

ER 5.1 Law Firms and Associations

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

ER 8.4(d) Misconduct

It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

- (5) Respondent, Shasta Marie Nolte, is the same person as the Shasta Marie Nolte, who is the subject of the Attorney Disciplinary Proceeding entered by the State Bar of Arizona; and
- (6) The Final Judgment and Order filed by the State Bar of Arizona is final.

Conclusions of Law. Based upon the foregoing findings of facts the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. Tex. Rules Disciplinary P. R. 7.08(H).
- (2) Reciprocal discipline identical, to the extent practicable, to that imposed by the State Bar of Arizona is warranted in this case. TRDP 9.03.
- (3) Respondent should be suspended from the practice of law for a period of two (2) years with the suspension being fully probated.
- (4) This Board retains jurisdiction during the full term of probation imposed by this judgment to hear a motion to revoke probation.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that Respondent, Shasta Marie Nolte, State Bar Card No. 24071455, is hereby suspended from the practice of law for a period of two (2) years with the suspension being fully probated beginning 1/5/21, and ending 1/4/23, under the following terms and conditions:

- (1) Respondent shall not violate any of the provisions of the Texas Disciplinary Rules of Professional Conduct or any provision of the State Bar Rules.

- (2) Respondent shall not be found guilty of, or plead no contest to, any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property.
- (3) Respondent must notify both the Office of the Chief Disciplinary Counsel and the Membership Department of the State Bar of Texas of any change in Respondent's address within thirty (30) days of the change of address.
- (4) Respondent shall not violate any of the terms or conditions of probation imposed by the State Bar of Arizona on August 10, 2020, in the matter styled: *In the Matter of a Member of the State Bar of Arizona, Shasta Marie Nolte, Bar No. 030368, in Case No. PDJ 2020 9064, State Bar File No. 19-0705.*
- (5) Respondent shall timely comply with all requirements of the Probated Agreement entered by the State Bar of Arizona, *In the Matter of a Member of the State Bar of Arizona, Shasta Marie Nolte, Bar No. 030368, in Case No. PDJ 2020 9064, State Bar File No. 19-0705.*

Probation Revocation

Upon determination that Respondent has violated any term or condition of this judgment or of the disciplinary order or judgment entered by the State Bar of Arizona, the Chief Disciplinary Counsel may, in addition to all other remedies available, file a motion to revoke probation pursuant to TRDP 2.22 with this Board and serve a copy of the motion on Respondent pursuant to Tex.R.Civ.P. 21a.

This Board will conduct an evidentiary hearing to determine by a preponderance of the evidence whether Respondent has committed a violation of probation. If this Board finds grounds for revocation, it will enter an order revoking probation and placing Respondent on active suspension from the date of such revocation order without credit for any term of probation served prior to revocation.

It is further **ORDERED** that any conduct on the part of Respondent, which serves as the basis for a motion to revoke probation, may also be brought as independent grounds for

discipline as allowed under the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure.

It is, FURTHER ORDERED, ADJUDGED, AND DECREED that Respondent, Shasta Marie Nolte, State Bar Card No. 24071455, is hereby SUSPENDED with the suspension being fully probated.

Signed this 5th day of January 2021.

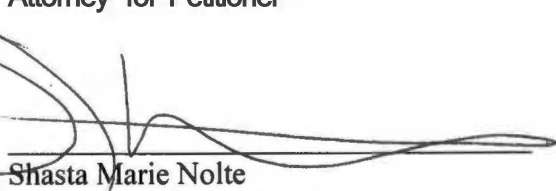


VICE CHAIR PRESIDING
BOARD OF DISCIPLINARY APPEALS

APPROVED AS TO FORM AND CONTENT:



Amanda M. Kates
Assistant Disciplinary Counsel
State Bar Card No. 24075987
Attorney for Petitioner



Shasta Marie Nolte
State Bar Card No. 24071455
Respondent