

BOBBY E. PANGBURN
(Disbarment)

On March 21, 2013, the Idaho Supreme Court issued its Remittitur ordering that the Court's Opinion announced February 27, 2013 was final and awarding the Idaho State Bar \$1,302.90 of costs. The Court's Opinion ordered that Eagle attorney Bobby E. Pangburn be disbarred, effective February 1, 2010.

The Idaho Supreme Court Opinion concluded the disciplinary case filed on May 20, 2010. Mr. Pangburn was suspended from the practice of law in Idaho on January 31, 2008, as a result of a reciprocal disciplinary proceeding stemming from misconduct that occurred in Oregon. That reciprocal disciplinary proceeding resulted in a five-year suspension with three years withheld. However, before Mr. Pangburn requested reinstatement from that suspension, the Idaho State Bar filed a second complaint alleging professional misconduct in connection with Mr. Pangburn's representation of two Idaho clients, Robert Hall and Robert Illingworth. The Opinion addressed the relevant facts regarding Mr. Pangburn's representation of those clients.

Mr. Pangburn represented Mr. Hall during Mr. Hall's prosecution for drug trafficking. Following his plea and sentence to 39 years in prison, Mr. Hall filed a pro se petition for post-conviction relief. In that petition, he advanced several claims for relief, one of which was ineffective assistance of trial counsel. Even though Mr. Hall's petition asserted that Mr. Pangburn had previously provided ineffective assistance, the district court appointed Mr. Pangburn to represent Mr. Hall in the post-conviction proceedings. Mr. Pangburn did not notify the court of the conflict. Mr. Pangburn then filed an amended petition for post-conviction relief, removing the ineffective assistance of trial counsel claim. The district court eventually dismissed the remaining claims.

A different attorney represented Mr. Hall in his appeal from the denial of the post-conviction relief, and she requested a remand so that Mr. Hall could advance his ineffective assistance of trial counsel claim. The request was granted. On remand, the State and Mr. Hall's new attorney stipulated that Mr. Hall was entitled to limited post-conviction relief consisting of a hearing on Mr. Hall's Rule 35 motion to reduce his sentence. In the intervening four years that passed from the time Mr. Hall's first post-conviction relief petition was filed, the original sentencing judge retired. After a hearing, the new judge granted Rule 35 relief and reduced Mr. Hall's sentence from 39 years to 18 years. Based upon those circumstances, Mr. Pangburn admitted that he violated I.R.P.C. 1.3 [Failing to act with reasonable diligence], 1.7(a) [Conflict of interest] and 8.4(d) [Engaging in conduct prejudicial to the administration of justice].

With regard to the second case, Mr. Illingworth's mother paid Mr. Pangburn \$12,000 to represent her son in a post-conviction relief matter. The first \$2,000 was a flat fee that covered Mr. Pangburn's trip to Orofino to discuss the case with Mr. Illingworth. The remaining \$10,000 was paid as a retainer for Mr. Pangburn's representation in the post-conviction case. Shortly after payment of the retainer, Mr. Illingworth terminated

Mr. Pangburn. Mr. Illingworth's mother demanded that Mr. Pangburn return the full \$12,000. Since Mr. Pangburn had performed some work on the case, he refused to return the money.

On July 31, 2006, Mr. Illingworth's mother filed a claim with the Client Assistance Fund, seeking reimbursement. The Client Assistance Fund held a hearing and on June 27, 2007, determined that Mr. Pangburn owed Ms. Illingworth \$7,280. On February 26, 2008, the Idaho Supreme Court rejected Mr. Pangburn's challenge to the Client Assistance Fund's findings. Mr. Pangburn did not return any of the money, so the Client Assistance Fund paid Ms. Illingworth \$7,280 on March 13, 2008. Mr. Pangburn has not reimbursed the Client Assistance Fund. Based upon those circumstances, Mr. Pangburn admitted that he violated I.R.P.C. 1.16(d) [Failing to return unearned fees upon termination of representation] and 1.15(d) [Failure to keep property separate until the dispute between the lawyer and client was resolved].

Given Mr. Pangburn's admissions that he violated those Idaho Rules of Professional Conduct, a Hearing Committee of the Professional Conduct Board conducted a hearing on April 4, 2011, to determine the sanction that it would recommend to the Court. On July 27, 2011, the Hearing Committee issued a decision recommending that Mr. Pangburn be disbarred. Mr. Pangburn filed a Motion to Alter or Amend that decision. On November 9, 2011, the Hearing Committee denied Mr. Pangburn's Motion to Alter or Amend, but did recommend that Mr. Pangburn's effective date of disbarment be February 1, 2010, which was the date that Mr. Pangburn would have been eligible to reinstate following his 2008 suspension.

The Court's Opinion stated that the Court had conducted an independent review of the record and carefully considered the nature of the admitted violations of the Idaho Rules of Professional Conduct and the mitigating and aggravating circumstances. The Court concluded that the need to protect the public, the courts and the legal profession, dictated that the Court accept the Hearing Committee's recommendation that Mr. Pangburn be disbarred. The Court disbarred Mr. Pangburn effective February 1, 2010.

Mr. Pangburn cannot apply for admission to the Idaho State Bar sooner than five years from the effective date of the disbarment. If Mr. Pangburn applies for admission, he will have the burden of overcoming the rebuttable presumption of "unfitness to practice law."

This disbarment notice shall be published in the *Advocate*, the *Idaho Statesman* and the *Idaho Reports*.

Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, Idaho 83701, (208) 334-4500.