

DARREN L. McKENZIE
(Suspension, Withheld Suspension and Probation)

On December 9, 2013, the Idaho Supreme Court issued a Disciplinary Order suspending Nampa attorney Darren L. McKenzie from the practice of law for a period of five years, with 19 months withheld and recommending terms of probation upon any reinstatement. Mr. McKenzie's non-withheld suspension runs from June 2, 2010 through November 2, 2013, representing credit for time he served on interim suspension. The Idaho Supreme Court's Order followed a stipulated resolution of a disciplinary proceeding that related to the following circumstances.

On May 20, 2010, the Idaho State Bar filed a formal charge Complaint and a Petition for Interim Suspension of License to Practice Law with the Idaho Supreme Court. On June 2, 2010, the Idaho Supreme Court entered an Order placing Mr. McKenzie on interim suspension effective June 2, 2010.

The Complaint alleged four counts of professional misconduct. With respect to Count One, Mr. McKenzie admitted he violated I.R.P.C. 1.3, relating to diligence, 1.4 relating to lack of communication with his client, 1.15(c) relating to the failure to promptly notify and deliver property to his client, 1.15(d) relating to failure to distribute property to his client, and 1.16(d) relating to the failure to return unearned fees and the file upon termination of representation. Count One related to Mr. McKenzie's representation of a client in a criminal case. The client pled guilty pursuant to a negotiated plea and was sentenced. In anticipation of his incarceration, the client signed a durable power of attorney appointing Mr. McKenzie as his agent to sell his house. Mr. McKenzie agreed to deduct his attorney's fees from the proceeds from the sale. The house was sold, Mr. McKenzie's attorney's fees were paid, he made a deposit to his client's inmate account and the remainder of the proceeds was placed in a certificate of deposit for the client's benefit. However, despite requests, Mr. McKenzie did not communicate with his client nor provide him with an itemized accounting of the funds. After the Complaint was filed, Mr. McKenzie cooperated with Bar Counsel's Office and they were jointly able to obtain a release of the funds held in the matured certificate of deposit. Those funds were then transferred to Mr. McKenzie's client's inmate account. Mr. McKenzie also then provided an accounting of fees and costs relating to that client.

With respect to Count Three, Mr. McKenzie admitted that he violated I.R.P.C. 1.2 relating to the scope of representation, 1.3 relating to diligence, 1.4 relating to communication, and 1.1.6(d) relating to the failure to protect his client's interest upon termination. That count related to Mr. McKenzie's representation of a client in a divorce modification case. Mr. McKenzie handled the case and the court took the matter under advisement, pending the submission of separate proposed orders from counsel. No proposed orders were filed with the court by either counsel. Mr. McKenzie's client filed a complaint alleging that Mr. McKenzie failed to expedite his litigation and could not be reached despite several attempts to communicate with him. Opposing counsel eventually filed an affidavit with the Court to retain the case, Mr. McKenzie's client eventually retained substitute counsel, and the case was completed.

With respect to Counts Two and Four, Mr. McKenzie admitted that he violated I.R.P.C. 8.1(b) and I.B.C.R. 504(e) relating to his failure to respond to requests from Bar Counsel about those client's grievances.

The Disciplinary Order provides that 41 months of suspension will be served by Mr. McKenzie and 19 months of the suspension will be withheld. Mr. McKenzie's 41 month suspension runs from June 2, 2010 through November 2, 2013, representing credit for the time he served on interim suspension. Mr. McKenzie will serve a two-year probation following any reinstatement subject to conditions of probation specified in the Disciplinary Order. Those conditions include that Mr. McKenzie will serve an additional 19 month suspension if he admits or is found to have violated any of the Idaho Rules of Professional Conduct for a which a public sanction is imposed for any conduct during Mr. McKenzie's period of probation. During his probation, Mr. McKenzie must practice under a supervising attorney and provide monthly reports to Bar Counsel attesting that his representations of his clients is consistent with his responsibilities under the Idaho Rules of Professional Conduct.

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