

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2)
3 **IN RE:**)
4 **BRIAN C. PADGETT, ESQ.**)
5 **NEVADA BAR NO. 7474**)
6 _____)

Electronically Filed
Aug 10 2021 12:18 p.m.
CASE SUMMIT FOR
RECORD ON APPEAL
Elizabeth A. Brown
Clerk of Supreme Court

6 **SUMMARY OF NATURE OF THE CASE**

7 On or about March 6, 2012, Brian C. Padgett (hereinafter “Mr. Padgett”), Bar No.
8 7474, was retained by John DiFrancesco, Robert Feron, and Jacalyn Feron (hereinafter
9 “Clients”) to represent them in an eminent domain lawsuit related to the Truckee River
10 Flood Management Project. A Complaint was filed on behalf of the Clients on July 9,
11 2012. Attorney Amy Sugden (hereinafter “Ms. Sugden”) became the Clients’ primary
12 legal contact but was supervised by Mr. Padgett.

13 The Clients expressed their desire to move the lawsuit, discovery, and depositions
14 toward a trial date on many occasions. However, Ms. Sugden consistently ignored or
15 stalled on completing these tasks. Ms. Sugden and the Clients also made Mr. Padgett
16 aware that the Clients were unhappy with the status of their case. Ms. Sugden and Mr.
17 Padgett were not responsive to the Clients.

18 Despite the Clients’ requests, a trial date was ultimately never set. In fact, the Five-
19 Year Rule, as set forth in NRCP 41, was set to expire on July 9, 2017. The Clients were
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1 not aware of the Five-Year Rule and its application to their case until Ms. Sugden sent
2 them an email on or about September 16, 2017.

3 The Clients paid Mr. Padgett approximately \$161,000.00 in legal fees, which
4 included \$7,500.00 for travel expenses/depositions that were never taken. On or about
5 March 12, 2019, the Clients hired attorney Michael Sullivan (hereinafter "Mr. Sullivan")
6 to substitute Mr. Padgett as attorney of record. On or about April 8, 2019, Mr. Sullivan,
7 acting on behalf of the Clients, filed a Stipulation and Order for Dismissal with Prejudice
8 after discussing their options with him.

9 The State Bar sent Mr. Padgett a Letter of Investigation ("LOI"). In response to the
10 LOI, Mr. Padgett stated that Ms. Sugden was not under his supervision as she was an
11 independent contractor and failed to provide a complete accounting of fees with respect
12 to the Clients' case. Further, Mr. Padgett failed to supplement his accounting to the State
13 Bar despite stating that he would.

14 The Formal Hearing was initially set to commence on October 15, 2020, at 9:00
15 a.m. Approximately forty-nine (49) minutes before the Formal Hearing, Mr. Padgett sent
16 the State Bar an email requesting that the hearing be continued. Mr. Padgett included a
17 letter where he alleged a lack of notice of process and stated that he made the decision to
18 work full time from his home office in or around February 2020. Mr. Padgett also submit
19 an affidavit from his secretary stating that she mailed a notice of change of his address to
20 the State Bar on or about February 28, 2020. The State Bar has no record of such a request.

1 Rather, the State Bar's records show that Mr. Padgett did not provide his address change
2 until January 5, 2021.

3 On May 28, 2021, and June 16, 2021, a Formal Hearing was held through the online
4 video conferencing platform Zoom. After deliberations, the Formal Hearing Panel found
5 by clear and convincing evidence that Mr. Padgett violated RPC 1.15 (Safekeeping
6 Property), RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers),
7 RPC 8.1 (Bar Admission and Disciplinary Matters), and RPC 8.4 (Misconduct).

8 **NUMBER OF GRIEVANCES INCLUDED IN CASE**

9 One (1) grievance file.

10 **THE RULES OF PROFESSIONAL CONDUCT**

11 The alleged violations in the Amended Complaint were as follows: (1) RPC 1.15
12 (Safekeeping Property); (2) RPC 5.1 (Responsibilities of Partners, Managers, and
13 Supervisory Lawyers); (3) RPC 8.1 (Bar Admission and Disciplinary Matters); (4) RPC
14 8.1 (Bar Admission and Disciplinary Matters); (5) RPC 8.4 (Misconduct); and (6) RPC
15 8.4 (Misconduct).

16 **THE NATURE OF THE RULE VIOLATIONS**

17 The Formal Hearing Panel found by clear and convincing evidence that Mr. Padgett
18 violated all six (6) counts in the Amended Complaint.

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Padgett Brian C. Case Summary (OBC19-1111)

Final Audit Report

2021-08-05

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By:	Laura Peters (laurap@nvbar.org)
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-  Document created by Laura Peters (laurap@nvbar.org)
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IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE:

DISCIPLINE OF
BRIAN C. PADGETT, ESQ.
STATE BAR NO. 7474

Case No:

Volume I

RECORD OF DISCIPLINARY PROCEEDINGS,
PLEADINGS
AND TRANSCRIPT OF HEARINGS

Gerard Gosioco, Esq.
Assistant Bar Counsel
Nevada Bar #14371
3100 West Charleston Blvd., Ste. 100
Las Vegas, NV 89102

Attorney for State Bar of Nevada

Brian C. Padgett, Esq.
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Respondent

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FILED

MAY 13 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

Case No: OBC19-1111

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

COMPLAINT

TO: BRIAN C. PADGETT, Esq.
The Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, NV 89101

PLEASE TAKE NOTICE that pursuant to Nevada Supreme Court Rule ("SCR") 105(2) a **VERIFIED RESPONSE OR ANSWER** to this Complaint **must be filed** with the Office of Bar Counsel, State Bar of Nevada, 9456 Double R Blvd., Suite B, Reno, Nevada, 89521, **within twenty (20) days of service of this Complaint**. The procedure regarding service is addressed in SCR 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada (hereinafter "State Bar") alleges that BRIAN C. PADGETT, Esq. (hereinafter "Respondent"), Nevada Bar No. 7474, is an active member of the State Bar, has been licensed to practice law in the State of Nevada since December 28, 2000, and at all times pertinent to this Complaint, had a principal place of business for the practice of law located in Clark County, Nevada.

1 2. Respondent has engaged in acts of misconduct in violation of the Nevada
2 Rules of Professional Conduct ("RPC"), requiring disciplinary sanctions.

3 3. On or about September 3, 2019, the State Bar received a grievance from John
4 Di Francesco, Robert Feron, and Jacalyn Feron (hereinafter "Grievants") alleging that
5 Respondent engaged in misconduct.

6 4. Grievants have owned commercial property (hereinafter "Subject Property")
7 along the Truckee River since approximately 1990.

8 5. On or about March 11, 2003, the Board of County Commissioners of Washoe
9 County approved the Truckee River Flood Management Project ("TRFMP") for the purpose
10 of flood management.

11 6. The TRFMP was paired with an Early Land Acquisition Plan ("ELAP") to
12 acquire properties in the affected project areas.

13 7. On or about April 24, 2005, the Subject Property was added to the list of
14 properties to be acquired under the ELAP.

15 8. On or about February 9, 2006, Grievants received a letter from the TRFMP
16 stating its intent to acquire the Subject Property for the project.

17 9. On, about, or between May 12, 2006, and October 29, 2007, the TRFMP
18 acquired nearly every property adjacent to the Subject Property.

19 10. Between 2006 and 2012, there were multiple negotiations between Grievants
20 and the TRFMP regarding the acquisition of the Subject Property which never came to
21 fruition.

22 11. On or about March 6, 2012, Grievants retained the Law Offices of Brian C.
23 Padgett ("LOBCP") to represent them in a lawsuit related to the TRFMP.

1 12. On or about July 9, 2012, the LOBCP, acting on behalf of Grievants, filed a
2 Complaint against Washoe County, the City of Reno, the City of Sparks, and the TRFMP
3 alleging inverse condemnation and pre-condemnation damages claims.

4 13. Attorney Amy L. Sugden (hereinafter "Ms. Sugden"), an employee of
5 Respondent, became Grievants' primary legal contact throughout the seven years of their
6 representation.

7 14. On many occasions during the pendency of the case, Grievants expressed to
8 Respondent their desire to move the lawsuit, discovery, and depositions toward a trial date.

9 15. Respondent consistently ignored or stalled on completing these tasks.

10 16. Despite Grievants' requests, a trial date was ultimately never set.

11 17. The Five-Year Rule, as set forth in Rule 41 of the Nevada Rules of Civil
12 Procedure ("NRCP"), for Grievants' Complaint was set to expire on July 9, 2017.

13 18. Ms. Sugden states that she had a "gentleman's agreement with opposing
14 counsel" to extend the Five-Year Rule.

15 19. There is no documentation or stipulation extending or tolling the expiration
16 of the Five-Year Rule.

17 20. Grievants were not aware of the Five-Year Rule, and its application to their
18 civil case, until Ms. Sugden sent them an email on or about September 16, 2017.

19 21. On or about April 20, 2018, Grievants instructed Ms. Sugden to take
20 depositions and to file a Motion in Limine.

21 22. Although Grievants provided LOBCP with approximately \$7,500 for travel
22 expenses and depositions, no depositions were scheduled and/or taken.

23 23. Louise Watson (hereinafter "Ms. Watson"), an investigator with the State
24 Bar, inquired about the \$7,500 payment.

1 24. Respondent stated that Grievants had an unpaid balance with LOBCP, and
2 that any funds received would have been applied to the outstanding balance.

3 25. Respondent stated that he would supplement his response with the
4 Grievants' actual balance owed but failed to do so.

5 26. On or about June 29, 2018, Ms. Sugden, acting on behalf of Grievants, filed a
6 Motion in Limine to Exclude Evidence After August 2012 ("Motion in Limine").

7 27. Although an "Index of Exhibits" was included in the Motion in Limine, no
8 exhibits were attached.

9 28. On or about August 7, 2018, Grievants sent Ms. Sugden an email inquiring
10 about the status of the Motion in Limine.

11 29. On or about August 9, 2018, Ms. Sugden stated that opposing counsel's
12 opposition was due on July 26, 2018, and that nothing had been filed.

13 30. Respondent also stated that she "can't file a reply without an opposition, but
14 I can do a notice of 'non-opposition' and hopefully the Court will then grant our request in
15 short order."

16 31. On or about August 23, 2018, Grievants emailed Ms. Sugden stating that they
17 checked the court docket and found that a non-opposition was never filed.

18 32. On or about August 27, 2018, Ms. Sugden informed Grievants that a notice
19 of non-opposition was submitted, and that she would follow up with her assistant to get
20 them a file-stamped copy.

21 33. The court's docket reveal that nothing was filed by either party in August
22 2018.

23 34. On or about September 5, 2018, Ms. Sugden, acting on behalf of Grievants,
24 filed a Supplement to the Motion in Limine attaching the missing twenty-six (26) exhibits.

35. Around December 2018, Respondent took over Ms. Sugden's duties as Grievants' primary contact.

36. Respondent claims that on or about December 4, 2018, he spoke with Grievants about potential settlement ranges.

37. According to Respondent, Grievants agreed to get another appraisal done, and that they were directed to get back to Respondent regarding appraisal and directions for further negotiations.

38. Respondent stated that after months of not hearing from Grievants, he was contacted by Grievants' new counsel.

39. On or about March 12, 2019, Grievants hired attorney Michael Sullivan (hereinafter "Mr. Sullivan") to substitute Respondent as attorney of record.

40. On or about April 8, 2019, Mr. Sullivan, acting on behalf of Grievants, filed a Stipulation and Order for Dismissal with Prejudice after discussing their options with him.

Count One

Rule 1.15 (Safekeeping Property)

41. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 40 as if fully incorporated herein.

42. RPC 1.15 states:

(a) A lawyer shall hold funds or other property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. All funds received or held for the benefit of clients by a lawyer or firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts designated as a trust account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property in which clients or third persons hold an interest shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the funds or other property as to which the interests are not in dispute.

43. Respondent negligently failed to keep accounting documents pertaining to Grievants after November 2016.

44. Respondent's misconduct resulted in injury and/or potential injury to his clients.

45. In light of the foregoing, including without limitation paragraphs 2 through 55, Respondent has violated RPC 1.15 (Safekeeping Property).

Count Two

Rule 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers)

46. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 45 as if fully incorporated herein.

47. RPC 5.1 states:

(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.

48. Respondent, having direct supervisory authority over Ms. Sugden, negligently failed to make reasonable efforts to ensure that Ms. Sugden conformed to the Rules of Professional Conduct in her representation of Grievants.

49. Respondent's misconduct resulted in injury and/or potential injury to his clients, as well as the profession.

50. In light of the foregoing, including without limitation paragraphs 2 through 55, Respondent has violated RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers).

Count Three

Rule 8.1 (Bar Admission and Disciplinary Matters)

51. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 50 as if fully incorporated herein.

52. RPC 8.1 states:

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(a) Knowingly make a false statement of material fact; or

(b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

1 53. Respondent knowingly failed to respond to a lawful demand for information
2 from Ms. Watson by failing to provide a supplement to his previously submitted incomplete
3 response.

4 54. Respondent's misconduct resulted in injury to the profession.

5 55. In light of the foregoing, including without limitation paragraphs 2 through
6 55, Respondent has violated RPC 8.1 (Bar Admission and Disciplinary Matters).

7 **WHEREFORE**, Complainant prays as follows:

8 56. That a hearing be held pursuant to SCR 105;

9 57. That Respondent be assessed the costs of the disciplinary proceeding
10 pursuant to SCR 120(1); and

11 58. That pursuant to SCR 102, such disciplinary action be taken by the Northern
12 Nevada Disciplinary Board against Respondent as may be deemed appropriate under the
13 circumstances.

14 DATED this 7th day of May 2020.

15
16 **STATE BAR OF NEVADA**
17 **DANIEL M. HOOGE, BAR COUNSEL**

18 */s/ Gerard Gosioco*

19 **Gerard Gosioco, Assistant Bar Counsel**
20 Nevada Bar No. 14371
21 3100 West Charleston Boulevard, Suite 100
22 Las Vegas, Nevada 89102
23 (702) 382-2200

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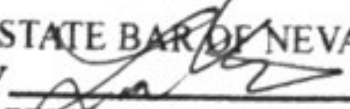
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Case No: OBC19-1111



FILED

MAY 13 2020

STATE BAR OF NEVADA
BY 
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
BRIAN C. PADGETT, ESQ.,)
Nevada Bar No. 7474,)
)
Respondent.)

FIRST DESIGNATION OF
FORMAL HEARING
PANEL MEMBERS

TO: BRIAN C. PADGETT, Esq.
The Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, NV 89101

The following are members of the Disciplinary Board for the Northern District of Nevada. Pursuant to Nevada Supreme Court Rule 105, you may issue peremptory challenge to five (5) such individuals by delivering the same in writing to the Office of Bar Counsel on or before the date a response to the Complaint is due. The Chair of the Northern Nevada Disciplinary Board, Caren Jenkins, Esq., will thereafter designate a hearing panel of three (3) members of the Disciplinary Board, including at least one member who is not an attorney, to hear the above captioned matter.

1. Sara Almo - Montalvo, Esq.
2. Nathan Aman, Esq.
3. Fredrick Battcher, Esq.
4. Kendra Bertschy, Esq.
5. Adam Cate, Esq.
6. Marilee Cate, Esq.
7. Travis Clark, Esq.
8. Scott Hoffman, Esq.
9. Caren Jenkins, Esq.
10. Stephen Kent, Esq.
11. Alison Kertis, Esq.
12. Katherine Lyon, Esq.
13. C. Nicholas Pereos, Esq.
14. Amos Stege, Esq.
15. Eric A. Stovall, Esq.
16. Richard Williamson, Esq.
17. Steve Boucher, Laymember
18. Brian Duffrin, Laymember
19. Deveron Feher, Laymember
20. Michelle Hritz, Laymember
21. Michael LaBadie, Laymember
22. Tim Meade, Laymember
23. Steve Myerson, Laymember
24. Sadiq Patankar, Laymember

1 25. Richard Teicher, Laymember

2 Dated this 13th day of May, 2020.

3
4
5 STATE BAR OF NEVADA
6 DANIEL M. HOOGE, Bar Counsel

7 */s/ Gerard Gosioco*

8
9 By: _____

10 Gerard Gosioco, Assistant Bar Counsel
11 Nevada Bar No. 14371
12 9456 Double R Blvd., Ste. B
13 Reno, NV 89521
14 Attorney for Complainant



FILED

MAY 13 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

Case No: OBC19-1111

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN C. PADGETT, ESQ.,)
BAR NO. 7474)
Respondent.)

STATE BAR OF NEVADA'S
PEREMPTORY CHALLENGES

Pursuant to Supreme Court Rule 105(2)(a), the State Bar of Nevada hereby exercises its peremptory right to challenge the following member of the Northern Nevada Disciplinary Board from the Formal Hearing Panel in the above referenced matter:

1. Sadiq Patankar, Esq.

Dated this 12th day of May 2020.

STATE BAR OF NEVADA
DANIEL M. HOOGE, Bar Counsel

/s/ Gerard Gosioco

By: _____
Gerard Gosioco, Assistant Bar Counsel
Nevada Bar No. 14371
3100 W. Charleston Blvd., Ste. 100
Las Vegas, NV 89102

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing
State Bar of Nevada Peremptory Challenges was placed in the US Mail, postage
prepaid, and addressed to Brian C. Padgett, Esq., 611 S. 6th St., Las Vegas, NV 89101.

Dated this 13th day of May, 2020.



Laura Peters, an employee of
the State Bar of Nevada



FILED

JUN 09 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

Case No: OBC19-1111

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

**NOTICE OF INTENT
TO ENTER DEFAULT**

TO: BRIAN C. PADGETT, Esq.
The Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, NV 89101

BRIAN C. PADGETT, Esq.
11274 Gammila Drive
Las Vegas, NV 89141

PLEASE TAKE NOTICE THAT unless the State Bar receives a responsive pleading in the above-captioned matter by **June 29, 2020**, it will proceed on a default basis and ***the charges against you shall be deemed admitted.*** Supreme Court Rule 105 (2) states in relevant part:

A copy of the complaint shall be served on the attorney and it shall direct that a verified response or answer be served on bar counsel within 20 days of service . . . In the event the attorney fails to plead, **the charges shall be deemed admitted**; provided, however, that an attorney who fails to respond within the time provided may thereafter obtain permission of the appropriate disciplinary board chair to do so, if failure to file is attributable

1 to mistake, inadvertence, surprise, or excusable neglect. (Emphasis
2 added.)

3 Additional copies of the Complaint previously served upon you, and the First
4 Designation of Hearing Panel Members, accompanies this Notice.

5 DATED this ____ day of June, 2020.

6 STATE BAR OF NEVADA
7 DANIEL M. HOOGE, Bar Counsel

8 By: _____
9 Gerard Gosioco, Assistant Bar Counsel
10 Nevada Bar No. 14371
11 3100 W. Charleston Blvd., Ste. 100
12 Las Vegas, NV 89102
13 (702) 382-2200
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Signature: /s/ Gerard Gosioco
/s/ Gerard Gosioco (Jun 8, 2020 16:23 PDT)
Email: gerardg@nvbar.org






Padgett. NIED_060220

Final Audit Report

2020-06-08

Created:	2020-06-08
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAYzQ9gBg8uWbi86SZ45Tj7mYXFRyn5sqo

"Padgett. NIED_060220" History

-  Document created by Laura Peters (laurap@nvbar.org)
2020-06-08 - 11:10:21 PM GMT- IP address: 71.94.199.108
-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-06-08 - 11:10:41 PM GMT
-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-06-08 - 11:23:25 PM GMT- IP address: 70.173.56.155
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-06-08 - 11:23:45 PM GMT - Time Source: server- IP address: 70.173.56.155
-  Signed document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) and Laura Peters (laurap@nvbar.org)
2020-06-08 - 11:23:45 PM GMT




Adobe Sign

1 **CERTIFICATE OF SERVICE BY MAIL**

2 The undersigned hereby certifies that a true and correct copy of the foregoing
3 **Notice of Intent to Enter Default** along with a copy of the Complaint filed May 13,
4 2020, was placed in the US Mail, postage prepaid via first class certified and regular mail,
5 and addressed to Brian C. Padgett, Esq., 611 S. 6th St., Las Vegas, NV 89101 and
6 11274 Gammila Drive, Las Vegas, NV 89141.

7 Dated this 9th day of June, 2020.

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9 
10 Laura Peters, an employee of
the State Bar of Nevada

11 Certified receipts - 7015-3010-0001-2456 & -2332
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Case Number: OBC19-1111



FILED

JUL 08 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.

NV BAR NO. 7474

Respondent.

**ORDER APPOINTING
HEARING PANEL CHAIR**

IT IS HEREBY ORDERED that the following member of the Northern Nevada
Disciplinary Board has been designated and as the Hearing Panel Chair.

1. Rich Williamson, Esq., Chair

DATED this 2 day of July, 2020.

STATE BAR OF NEVADA

By: CC Jenkins
Caren C Jenkins (Jul 2, 2020 15:04 PDT)

Caren Jenkins, Esq., Chair
Northern Nevada Disciplinary Board




Panel Chair Ord North_Williamson

Final Audit Report

2020-07-02

Created:	2020-07-02
By:	Cathi Britz (cathib@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA3BizCGndoKAMihH7cK3YAA_MdNnE639y

"Panel Chair Ord North_Williamson" History

-  Document created by Cathi Britz (cathib@nvbar.org)
2020-07-02 - 9:18:36 PM GMT- IP address: 71.38.29.194
-  Document emailed to Caren C Jenkins (justccj@gmail.com) for signature
2020-07-02 - 9:20:57 PM GMT
-  Email viewed by Caren C Jenkins (justccj@gmail.com)
2020-07-02 - 10:03:06 PM GMT- IP address: 174.222.136.20
-  Document e-signed by Caren C Jenkins (justccj@gmail.com)
Signature Date: 2020-07-02 - 10:04:38 PM GMT - Time Source: server- IP address: 174.222.136.20
-  Signed document emailed to Caren C Jenkins (justccj@gmail.com) and Cathi Britz (cathib@nvbar.org)
2020-07-02 - 10:04:38 PM GMT



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Dated this ____ day of July, 2020.

**Laura Peters, an employee of
the State Bar of Nevada**



FILED

JUL 10 2020

STATE BAR OF NEVADA
BY [Signature]

OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
 Complainant,)
 vs.)
)
 BRIAN C. PADGETT, ESQ.,)
 7474)
 Respondent.)

DECLARATION OF SERVICE
ACCORDING TO SCR 109(1)
IN SUPPORT OF ENTRY OF DEFAULT

LAURA PETERS, under penalty of perjury, being first duly sworn, deposes and says
 as follows:

That Declarant is employed as a Paralegal for the State Bar of Nevada Office of Bar
 Counsel ("OBC") and in such capacity is a custodian of records for the OBC; Declarant
 certifies that the attached documents are true and accurate copies of records generated
 by and maintained by the OBC in the ordinary course of business.

That Declarant certifies the following is a summary of the OBC efforts to locate and
 serve attorney Brian C. Padgett, Esq. ("Respondent"):

1. Respondent is member of the State Bar of Nevada (Bar No. 7474), having
 been licensed in the State of Nevada since December 28, 2000.

2. Nevada Supreme Court Rule ("SCR") 79(1) requires every member of the
 State Bar of Nevada to provide the State Bar with a permanent mailing address, permanent

telephone number, and a current email address for purposes of State Bar communication with the attorney.

A. Service of the Complaint

3. On May 13, 2020, the State Bar filed a Complaint against Respondent in the above-captioned matter.

4. On May 13, 2020, Respondent had a SCR 79 address of record with the State Bar as 611 South 6th Street, Las Vegas, NV 89101.

5. Pursuant to SCR 109(1) service of the Complaint was made by mailing a copy to Respondent's SCR 79 address (611 South 6th Street, Las Vegas, NV 89101) via first class & certified U.S. mail on that May 13, 2020. See Exhibit 1.

6. Both the certified and regular mailings of the Complaint were returned to the Reno office of the State Bar on or about June 21, 2020. See Exhibit 2.

7. No response to the Complaint has been received from Respondent. Response was due on or before June 5, 2020.

B. Service of the Notice of Intent to Enter Default

8. On June 9, 2020, the State Bar filed a Notice of Intent to Enter Default ("NIED") against Respondent for his failure to respond to the Complaint.

9. On June 9, 2020, pursuant to SCR 109(1) service of the NIED was made by mailing a copy, along with another copy of the Complaint, to both Respondent's SCR 79 address and his alternate address (11274 Gammila Drive Las Vegas, NV 89141) via first class & certified mail. See Exhibit 3.

10. Both the certified and regular mailings of the NIED sent to Respondent's SCR 79 address were returned to the Reno office of the State Bar on or about June 23, 2020, marked "Return to Sender". See Exhibit 4.

11. The certified and regular mailings to Respondent's alternate address were returned to the Reno office of the State Bar on or about July 6, 2020, marked "Return to Sender, Unable to Forward". See Exhibit 5.

12. No response to the NIED has been received from Respondent. Response was due on or before June 29, 2020.

DATED this 10th day of July, 2020.

Laura Peters

Laura Peters, Paralegal
State Bar of Nevada, Office of Bar Counsel

EXHIBITS TO DUE DILIGENCE DECLARATION

DECLARATION OF MAILING

Laura Peters, under penalty of perjury, being first and duly sworn, deposes and says as follows:

1. That Declarant is employed as a paralegal for the State Bar of Nevada. That in such capacity, Declarant is Custodian of Records for the Discipline Department of the State Bar of Nevada.

2. That Declarant states that the enclosed documents are true and correct copies of the **COMPLAINT** and **FIRST DESIGNATION OF HEARING PANEL MEMBERS** in the matter of the State Bar of Nevada v. Brian C. Padgett, Esq., Case No: OBC19-1111.

3. That pursuant to Supreme Court Rule 109, the Complaint and First Designation of Hearing Panel Members were served on the following by placing a copy in an envelope which was then sealed and postage fully prepaid for first class & certified mail, and deposited in the United States mail at Reno, Nevada addressed to:

BRIAN C. PADGETT, Esq.
The Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, NV 89101

Laura Peters, an employee of the State Bar of Nevada



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X</p>	
<p>Brian C. Padgett, Esq. The Law Offices of Brian C. Padgett 611 S. 6th St. Las Vegas, Nevada 89101</p>		<p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery</p>	
<p>address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>or delivery address below: <input type="checkbox"/> No</p>			
<p>2. Article Number (Transfer from service label)</p> <p>7015 3010 0001 2446 2288</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Restricted Delivery</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>		<p>Domestic Return Receipt</p>	

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EVADA BAR CENTER
Ste. B, Reno, NV 89521-5977

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US POSTAGE
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Brian C. Padgett, Esq.
The Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, Nevada 89101

-R-T-S- 891012075-1N 06/18/20


RETURN TO SENDER
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1 **CERTIFICATE OF SERVICE BY MAIL**

2 The undersigned hereby certifies that a true and correct copy of the foregoing
3 **Notice of Intent to Enter Default** along with a copy of the Complaint filed May 13,
4 2020, was placed in the US Mail, postage prepaid via first class certified and regular mail,
5 and addressed to Brian C. Padgett, Esq., 611 S. 6th St., Las Vegas, NV 89101 and
6 11274 Gammila Drive, Las Vegas, NV 89141.

7 Dated this 9th day of June, 2020.

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9 _____
10 Laura Peters, an employee of
 the State Bar of Nevada

11 Certified receipts - 7015-3010-0001-2356 & -2332
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NEVADA BAR CENTER
1401 S. Ste. B, Reno, NV 89521-5977



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JUN 09 2020

Brian C. Padgett, Esq.

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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. A. <p style="text-align: center;">Brian C. Padgett, Esq. 611 S. 6th Street Las Vegas, NV 89101</p>  9590 9402 1329 5285 4530 29		B. Received by (<i>Printed Name</i>) C. Date of Delivery	
2. Article Number (<i>Transfer from service label</i>) 7015 3010 0001 2446 2332		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
		3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> All Restricted Delivery	
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PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt	



NEVADA BAR CENTER

1401 S. St. B, Reno, NV 89521-5977

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Brian C. Padgett, Esq.

611 S. 6th Street

Las Vegas NV 89101

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RETURN TO SENDER
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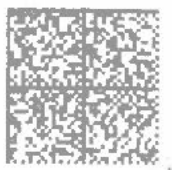


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NORTHERN NEVADA BAR CENTER

9456 Double R Blvd., Ste. B, Reno, NV 89521-5977

www.nvbar.org

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RETURN TO SENDER
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Brian C. Padgett, Esq.
11274 Gammlia Drive
Las Vegas, NV 89141

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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brian C. Padgett, Esq.
11274 Gammilla Drive
Las Vegas, NV 89141



9590 9402 1329 5285 4530 43

2. Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
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Domestic Return Receipt

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NORTHERN NEVADA BAR CENTER

9456 Double R Blvd., Ste. B, Reno, NV 89521-5977

www.nvbar.org

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Brian C. Padgett, Esq.
11274 Gammila Drive
Las Vegas, NV 89141

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FILED

JUL 13 2020

STATE BAR OF NEVADA
BY [Signature]

STATE BAR OF NEVADA
OFFICE OF BAR COUNSEL

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
BRIAN C. PADGETT, ESQ.,)
Nevada Bar No. 7474,)
)
Respondent.)
)

ENTRY OF DEFAULT

TO: BRIAN C. PADGETT, Esq.
611 S. 6th St.
Las Vegas, NV 89101

PROCEDURAL HISTORY

The State Bar of Nevada filed its Complaint, in accordance with Supreme Court Rule 109, upon BRIAN C. PADGETT, Esq. (hereinafter "Respondent"), on or about May 13, 2020. The Complaint was sent to Respondent's SCR 79 address via first class and certified mail. On or about June 21, both mailings of the Complaint were returned to the State Bar of Nevada's Reno office. Respondent failed to file a responsive pleading.

On or about June 9, 2020, a Notice of Intent to Proceed on a Default Basis (hereinafter "Notice") was filed. The Notice was sent to Respondent's SCR 79 address, as

1 well as his alternate address (11274 Gammila Dr., Las Vegas, NV 89141) via first class and
2 certified mail.

3
4 In the Notice, Respondent was directed to file a responsive pleading to the State
5 Bar's Complaint by June 29, 2020. On or about June 21, 2020, copies of the Notice sent to
6 Respondent's SCR 79 address via certified and first-class mail were returned to the State
7 Bar of Nevada's Reno office marked "Return to Sender". On or about July 6, 2020, copies
8 of the Notice sent via certified and first-class mail were also returned to the State Bar of
9 Nevada's Reno office marked "Return to Sender, Unable to Forward". Again, Respondent
10 failed to file a responsive pleading.
11

12 The last time Assistant Bar Counsel, Gerard Gosioco, had any contact with
13 Respondent was on or about February 26, 2020, which pertained to grievance file numbers
14 OBC19-0604 and OBC19-0798. Similar to the instant matter, Respondent's lack of
15 communication in those cases resulted in a Default Hearing that was held on or about June
16 8, 2020.
17

18 **ORDER**

19 **IT APPEARING** that the Respondent, BRIAN C. PADGETT, Esq., is in default for
20 failure to plead or otherwise defend as required by law, **DEFAULT** is hereby entered
21 against Respondent.
22

23 ///

1 The allegations set forth in the Complaint filed on or about May 13, 2020, are
2 deemed admitted.

3 **IT IS SO ORDERED.**

4
5 Dated this 13th of July, 2020.

6
7 
8 Richard D. Williamson (Jul 13, 2020 13:04 PDT)

9 Rich Williamson, Esq., Hearing Panel Chair
10 Northern Nevada Disciplinary Board

11 Submitted by:
12 STATE BAR OF NEVADA
13 Daniel M. Hooge, Bar Counsel

14 
15

16 GERARD GOSIOCO
17 Assistant Bar Counsel
18 Nevada Bar No. 14371
19 3100 W. Charleston Blvd., Ste. 100
20 Las Vegas, NV 89102

21 *Attorneys for the State Bar of Nevada*
22
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Rich,

Final Audit Report

2020-07-13

Created:	2020-07-13
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAoPQ1gm3lq5d8_E1l1EKcn3k6rQnHcwf1

"Rich," History

-  Document created by Laura Peters (laurap@nvbar.org)
2020-07-13 - 7:37:58 PM GMT- IP address: 71.94.199.108
-  Document emailed to Richard D. Williamson (rich@nvlawyers.com) for signature
2020-07-13 - 7:38:21 PM GMT
-  Email viewed by Richard D. Williamson (rich@nvlawyers.com)
2020-07-13 - 8:02:39 PM GMT- IP address: 72.213.76.46
-  Document e-signed by Richard D. Williamson (rich@nvlawyers.com)
Signature Date: 2020-07-13 - 8:04:13 PM GMT - Time Source: server- IP address: 72.213.76.46
-  Signed document emailed to Richard D. Williamson (rich@nvlawyers.com) and Laura Peters (laurap@nvbar.org)
2020-07-13 - 8:04:13 PM GMT



Adobe Sign

CERTIFICATE OF SERVICE BY E-MAIL

The undersigned hereby certifies that a true and correct copy of the foregoing **Entry**
of Default, was emailed to Rich Williamson, Esq. -
rich@nvlawyers.com and Brian C. Padgett, Esq. -
brian@briancpadgett.com.

Dated this 13th day of July, 2020.

Laura Peters

Laura Peters, an employee of
the State Bar of Nevada

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that true and correct copies of the foregoing **Entry of Default** were placed in the U.S. Mail, postage prepaid, by certified and regular first-class mail, addressed to:

Brian C. Padgett, Esq.
11274 Gammila Dr.
Las Vegas, NV 89141

Brian C. Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

Dated this 14th day of July, 2020.

/s/Vicki Heatherington, an employee of
the State Bar of Nevada



FILED

JUL 15 2020

STATE BAR OF NEVADA

BY [Signature]
OFFICE OF BAR COUNSEL

Case No: OBC19-1111

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

**NOTICE OF TELEPHONIC
INITIAL CASE CONFERENCE**

TO: BRIAN C. PADGETT, Esq.
The Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, NV 89101

BRIAN C. PADGETT, Esq.
11274 Gammila Drive
Las Vegas, NV 89141

PLEASE TAKE NOTICE that the telephonic Initial Case Conference in the above-entitled matter will take place on **Tuesday July 21, 2020, beginning at 10:00 a.m.** The dial-in number is **(877) 594-8353**; when prompted enter **10250990** then # for Chairman Williamson or **46855068** then # for all other participants.

DATED this ____ day of July, 2020.

STATE BAR OF NEVADA
DANIEL M. HOOGE, Bar Counsel

/s/ Gerard Gosioco

By:

Gerard Gosioco, Assistant Bar Counsel
Nevada Bar No. 14371
3100 W. Charleston Blvd., Ste. 100
Las Vegas, NV 89102
(702) 382-2200

Padgett. Notice ICC_071520

Final Audit Report

2020-07-15

Created:	2020-07-15
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_ony3n6u3LkAvdTz5CJ7IE84EPtyXx6-

"Padgett. Notice ICC_071520" History

-  Document created by Laura Peters (laurap@nvbar.org)
2020-07-15 - 10:08:01 PM GMT- IP address: 71.94.199.108
-  Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature
2020-07-15 - 10:08:19 PM GMT
-  Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)
2020-07-15 - 10:10:53 PM GMT- IP address: 68.104.81.227
-  Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)
Signature Date: 2020-07-15 - 10:11:08 PM GMT - Time Source: server- IP address: 68.104.81.227
-  Signed document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) and Laura Peters (laurap@nvbar.org)
2020-07-15 - 10:11:08 PM GMT



Adobe Sign

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that true and correct copies of the foregoing **Notice of Telephonic Initial Case Conference** were placed in the U.S. Mail, postage prepaid, by certified and regular first-class mail, addressed to:

Brian C. Padgett, Esq.
11274 Gammila Dr.
Las Vegas, NV 89141

Brian C. Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

Dated this 16th day of July, 2020.

Vicki Heatherington, an employee of
the State Bar of Nevada



FILED

AUG 04 2020

STATE BAR OF NEVADA

BY [Signature]
OFFICE OF BAR COUNSEL

Case No.: OBC19-1111

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN PADGETT, ESQ.
NV BAR No. 7474
Respondent.

ORDER APPOINTING
FORMAL HEARING PANEL

IT IS HEREBY ORDERED that the following members of the Northern Nevada
Disciplinary Board have been designated as members of the formal hearing panel in the above-
entitled action. The hearing will be convened on the 15th day of October, 2020 starting at
9:00 a.m. via Zoom video conferencing.

1. Richard Williamson, Esq., Chair;
2. Nathan Aman, Esq.
3. Stephen Boucher, Laymember

DATED this 4th day of August, 2020.

STATE BAR OF NEVADA

By: [Signature]
Bruce C. Hahn, Esq., Chair
Northern Nevada Disciplinary Board

NORTH Hearing Panel Order_Padgett

Final Audit Report

2020-08-04

Created:	2020-08-04
By:	Cathi Britz (cathib@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABADpgLgAPNcse0U2_Pdo3fp96NNhC5UK5

"NORTH Hearing Panel Order_Padgett" History

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2020-08-04 - 6:34:12 PM GMT
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2020-08-04 - 6:35:01 PM GMT- IP address: 45.41.142.111
-  Document e-signed by Bruce Hahn (alockhart@da.washoecounty.us)
Signature Date: 2020-08-04 - 6:36:25 PM GMT - Time Source: server- IP address: 148.186.4.111
-  Signed document emailed to Cathi Britz (cathib@nvbar.org), bhahn@da.washoecounty.us and Bruce Hahn (alockhart@da.washoecounty.us)
2020-08-04 - 6:36:25 PM GMT



Adobe Sign

1 CERTIFICATE OF SERVICE BY MAIL

2 The undersigned hereby certifies that true and correct copies of the foregoing **Order**
3 **Appointing Formal Hearing Panel** were placed in the U.S. Mail, postage prepaid, by
4 certified and regular first-class mail, addressed to:

5 Brian C. Padgett, Esq.
11274 Gammila Dr.
6 Las Vegas, NV 89141

Brian C. Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

7 And also e-mailed on 8/4/20 to brian@briancpadgett.com, rich@nvlawyers.com,
8 naman@renonvlaw.com, steveboucher@sbcglobal.net and gerardg@nvbar.org on

9 Dated this 5th day of August 2020.

10
11

Vicki Heatherington, an employee of
12 the State Bar of Nevada
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Case No: OBC19-1111



FILED

AUG 19 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN C. PADGETT, ESQ.,)
Nevada Bar No. 7474,)
Respondent.)

SCHEDULING ORDER

Pursuant to Rule 17 of the Disciplinary Rules of Procedure, the Hearing Chair Rich Williamson, Esq., met telephonically with Gerard Gosioco, Esq., Assistant Bar Counsel, on behalf of the State Bar of Nevada and Respondent on July 21, 2020 at 10 a.m. to conduct the initial conference in this matter. Respondent, though properly noticed, was not present on the call. Initial disclosures, discovery issues, the potential for resolution of this matter prior to the hearing, a status conference, and the hearing date were discussed during the Initial Conference.

During the Initial Conference, it was agreed that:

1. All documents may be served electronically, unless otherwise required by the Nevada Supreme Court Rules.

1 2. The State Bar of Nevada's initial disclosures were produced to Respondent
2 on May 26, 2020.

3 3. Respondent will provide initial disclosures which shall be served on or before
4 August 4, 2020.

5 4. The parties shall file any Motions on or before August 7, 2020. Oppositions
6 to the Motions should be filed on or before August 17, 2020, and any Replies in Support of
7 the Motions should be filed on or before August 24, 2020.

8 5. At or before September 1, 2020 by 5:00 p.m., the parties shall exchange a list
9 of final hearing exhibits, identified numerically by the State Bar and alphabetically by
10 Respondent, and a list of all witnesses the party intends to call to testify at the Formal
11 Hearing.

12 6. The parties shall participate in a telephonic Pre-Hearing Conference with
13 Chair Williamson on October 12, 2020 at 10:00 a.m. Pursuant to Rule 23 of the
14 Disciplinary Rules of Procedure, at the Pre-hearing conference (i) the parties shall discuss
15 all matters needing attention prior to the hearing date, (ii) the Chair may rule on any
16 motions or disputes including motions to exclude evidence, witnesses, or other pretrial
17 evidentiary matter, and (iii) the parties shall discuss and determine stipulated exhibits
18 proffered by either bar counsel or respondent as well as stipulated statement of facts, if
19 any.

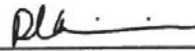
20 7. The hearing for this matter shall be set for 1 day, to wit October 15, 2020,
21 starting at 9:00 a.m. and shall take place via Zoom. The State Bar will provide a meeting
22 identification number prior to the hearing.

23 8. The Findings of Fact, Conclusion of Law, and Recommendation or Order in
24 this matter shall be due November 15, 2020.
25

1 Based on the parties' verbal agreement to the foregoing during the telephonic Initial
2 Conference and good cause appearing, IT IS SO ORDERED.

3 Dated 19th this day of August, 2020.

4 NORTHERN NEVADA DISCIPLINARY BOARD

5
6 
7 Richard D. Williamson (Aug 19, 2020 14:20 PDT)
8 Rich Williamson, Esq.
9 FORMAL HEARING CHAIR

10 Submitted By:

11 STATE BAR OF NEVADA
12 DANIEL M. HOOGE, BAR COUNSEL

13 /s/ Gerard Gosioco
14 By: /s/ Gerard Gosioco (Aug 19, 2020 10:27 PDT)
15 Gerard Gosioco, Assistant Bar Counsel
16 3100 W. Charleston Blvd, Suite 100
17 Las Vegas, Nevada 89102
18 702-382-2200
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draft scheduling order_071720

Final Audit Report

2020-08-19

Created:	2020-08-19
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
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"draft scheduling order_071720" History

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2020-08-19 - 6:50:20 PM GMT- IP address: 174.222.0.148
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2020-08-19 - 9:20:13 PM GMT

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that true and correct copies of the foregoing
Scheduling Order were served electronically upon:
brian@briancpadgett.com;
rich@nvlawyers.com; and
gerardg@nvbar.org.

Dated this 19th day of August 2020.

Laura Peters

Laura Peters, an employee of
the State Bar of Nevada



FILED

SEP 15 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN C. PADGETT, ESQ.,)
BAR NO. 7474)
Respondent.)

NOTICE OF HEARING

To: Brian C. Padgett, Esq.
brian@briancpadgett.com

PLEASE TAKE NOTICE that the formal hearing in the above-entitled action has been scheduled for **October 15, 2020, beginning at the hour of 9:00 a.m.** The hearing will be conducted via Zoom (meeting # to be provided at a later date). You are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this 15th day of September 2020.

STATE BAR OF NEVADA
DANIEL M. HOOGE, BAR COUNSEL

/s/ Gerard Gosioco
/s/ Gerard Gosioco (Sep 15, 2020 10:19 PDT)

Gerard Gosioco, Assistant Bar Counsel
Nevada Bar No. 14371
3100 West Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102
(702) 382-2200 Case No: OBC19-1104



FILED

SEP 15 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN C. PADGETT, ESQ.,)
BAR NO. 7474)
Respondent.)

**STATE BAR'S FINAL DISCLOSURE
OF DOCUMENTS AND WITNESSES**

PLEASE TAKE NOTICE that the following is a list of witnesses and a summary of evidence which may be offered against Respondent at the time of the Formal Hearing, in the above-entitled complaint.

A. Documentary Evidence

Any and all documentation contained in the State Bar of Nevada's file including but not limited to, correspondence, emails, memorandums, text messages, notes, payments, invoices, bank records, receipts, billing entries and pleadings regarding grievance file numbers OBC19-1111.

Any and all documentation contained in records of the State Bar of Nevada regarding Respondent's licensure, compliance with reporting requirements, and disciplinary history.

The State Bar reserves the right to supplement this list as necessary.

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///

Exhibit#	Document	Bates Stamped
1.	Formal Hearing Packet	will be produced prior to hearing
2.	Affidavit of Prior Discipline	will be produced at the time of hearing
3.	Engagement Letter, dated March 6, 2012	SBN 001-SBN 007
4.	Complaint in Inverse Condemnation, filed with 2JD, Case No. CV12-01788, filed July 9, 2012	SBN 008-SBN 0027
5.	Client payments for deposition expenses	SBN 0028-SBN 0032
6.	Notice of Entry of Order, Stipulation to Dismiss with Prejudice, filed April 9, 2019, in Case No. CV12-01788.	SBN 0033-SBN 0036
7.	Stipulation and Order to Dismiss Inverse Condemnation Claim filed January 25, 2016, in Case No. CV12-01788.	SBN 0037-SBN 0039
8.	Stipulation and Order to Vacate Trial, filed June 1, 2016, in Case No. CV12-01788.	SBN 0040-SBN 0042
9.	August 16, 2016 email from John Di Francesco to Amy Sugden, Esq., and Robert Feron.	SBN 0043-SBN 0044
10.	August 16, 2016 email from Robert Feron to Amy Sugden, Esq., John Di Francesco.	SBN 0045-SBN 0046
11.	September 10, 2016 email from John Di Francesco to Amy Sugden, Esq.	SBN 0047-SBN 0048
12.	December 28, 2016 email chain between Amy Sugden, Esq., and clients	SBN 0049-SBN 0057
13.	February 17, 2017 email from Steve Silva, Esq., re: five-year rule.	SBN 0058-SBN 0059
14.	March 25, 2017 email from Steve Silva, Esq., to Amy Sugden, Esq.	SBN 0060
15.	Order filed May 4, 2017, in Case No. CV12-01788 re: Motion for Summary Judgment.	SBN 0061-SBN 0070
16.	Order filed May 4, 2017, in Case No. CV12-01788 re: Motion for Judgment on the Pleadings.	SBN 0071-SBN 0083
17.	July 6, 2017 email from Robert Feron to Amy Sugden, Esq., and John Di Francesco.	SBN 0084-SBN 0085
18.	July 22, 2017 email from Robert Feron to Amy Sugden, Esq., and John Di Francesco.	SBN 0086
19.	September 16, 2017, (re: labor day) email chain between Amy Sugden, Esq., John Di Francesco and Robert Feron.	SBN 0087-SBN 0089
20.	September 20, 2017 email from Amy Sugden, Esq., to Robert Feron and John Di Francesco.	SBN 0090-SBN 0091
21.	October 2, 2017 email from John Di Francesco to Amy Sugden, Esq.	SBN 0092
22.	November 30, 2017 email from Robert Feron to Amy Sugden, John Di Francesco.	SBN 0093

23.	December 29, 2017 email chain between Amy Sugden, Esq., and clients.	SBN 0094
24.	January 19, 2018 email from Steve Silva, Esq., to Amy Sugden.	SBN 0095-SBN 0096
25.	April 20, 2018 email from Amy Sugden, Esq. to Robert Feron, John Di Francesco.	SBN 0097
26.	April 21, 2018 email from John Di Francesco to Amy Sugden, Esq., Robert Feron.	SBN 0098
27.	Motion in Limine filed June 29, 2018, in Case No. CV12-01788.	SBN 0099-SBN 00116
28.	August 27, 2018 email chain between Amy Sugden, Esq., and Robert Feron.	SBN 00117-SBN 00118
29.	Case Docket CV12-01788	SBN 00119-SBN 00127
30.	Exhibits to Motion in Limine filed September 5, 2018, in Case No. CV12-01788	SBN 00128-SBN 00354
31.	November 28, 2018, letter to Brian Padgett, Esq., and Amy Sugden, Esq., from John Di Francesco, Robert Feron.	SBN 00355
32.	December 1, 2018 email chain between Brian Padgett, Esq., John Di Francesco and Robert Feron.	SBN 00356-SBN 00359
33.	March 15, 2019 email from Robert Feron to Brian Padgett, Esq., and Amy Sugden, Esq.	SBN 00360
34.	Initial Grievance received by the Office of Bar Counsel on September 4, 2019 (w/enclosures)	SBN 00361-SBN 00389
35.	Letter of Investigation from Louise Watson, Investigator, dated September 11, 2019.	SBN 00390
36.	October 11, 2019 email from Respondent Brian Padgett, Esq., to Louise Watson.	SBN 00391-SBN 00392
37.	Attorney response dated October 14, 2019, from Brian Padgett, Esq. (w/attachments).	SBN 00393-SBN 00648
38.	December 4, 2019 email to grievants from Louise Watson	SBN 00649
39.	December 9, 2019 email to grievants from Louise Watson	SBN 00650
40.	December 20, 2019 letter to Brian Padgett, Esq., from Louise Watson.	SBN 00651
41.	January 17, 2020 email chain between Loise Watson and Brian Padgett, Esq.	SBN 00652-SBN 00654
42.	January 22, 2020 response from Brian Padgett, Esq., to Louise Watson.	SBN 00655-SBN 00657
43.	January 25, 2020 email chain between Robert Feron and Louise Watson.	SBN 00658
44.	February 1, 2020 correspondence to Louise Watson from John Di Francesco and Robert Feron (w/attachments).	SBN 00659-SBN 00688

1	45.	March 7, 2020 correspondence from John Di Francesco and Robert Feron (w/attachments).	SBN 00689-SBN 00713
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2
3 The State Bar incorporates by reference all documents identified by Respondent in these
4 matters.

5 **B. Witnesses and Brief Statement of Facts**

6 1. Respondent, Brian C. Padgett, Esq., will be called and would be expected to testify
7 regarding his conduct and communications surrounding the events related to, and any and all
8 documents pertinent to, each of the charged violations of the Rules of Professional Conduct,
9 including but not limited to facts pertaining to the breach of his professional responsibilities as an
10 attorney, his mental state pursuant to ABA Standards, the harm resulting from his conduct, and
11 any aggravating and mitigating factors pursuant to Supreme Court Rule 102.5. Respondent is
12 expected to provide testimony regarding the facts and circumstances regarding OBC19-1111.

13 2. Louise Watson, an investigator with the State Bar of Nevada Office of Bar Counsel,
14 is expected to provide testimony regarding her investigation of OBC19-1111, including but not
15 limited to, information and documents provided by Respondent and Grievant(s), communications
16 with Respondent and Grievant(s), and Respondent's disciplinary history.

17 3. John Di Francesco is expected to offer testimony regarding the facts and
18 circumstances regarding Case No. OBC19-1111, including but not limited to, the facts and
19 circumstances surrounding the allegations contained in said grievance.

20 4. Robert Feron is expected to offer testimony regarding the facts and circumstances
21 regarding Case No. OBC19-1111, including but not limited to, the facts and circumstances
22 surrounding the allegations contained in said grievance.

1 5. Jaclyn Feron is expected to offer testimony regarding the facts and circumstances
2 regarding Case No. OBC19-1111, including but not limited to, the facts and circumstances
3 surrounding the allegations contained in said grievance.

4 6. Michael Sullivan, Esq., is expected to offer testimony regarding his actions as
5 successor counsel in the Second Judicial Court Case No. CV12-01788.

6 Dated this 15th day of September, 2020.

7
8 **STATE BAR OF NEVADA**
9 **DANIEL M. HOOGE, BAR COUNSEL**

10 */s/ Gerard Gosioco*
 /s/ Gerard Gosioco (Sep 15, 2020 10:19 PDT)

11 **Gerard Gosioco, Assistant Bar Counsel**
12 Nevada Bar No. 14371
13 3100 West Charleston Boulevard, Suite 100
14 Las Vegas, Nevada 89102
15 (702) 382-2200
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Padgett.Notice of Hearing Final Disclosure _091120

Final Audit Report

2020-09-15

Created:	2020-09-15
By:	Laura Peters (laurap@nvbar.org)
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"Padgett.Notice of Hearing Final Disclosure _091120" History

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2020-09-15 - 5:18:05 PM GMT
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2020-09-15 - 5:18:53 PM GMT- IP address: 68.104.81.227
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-  Signed document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) and Laura Peters (laurap@nvbar.org)
2020-09-15 - 5:19:30 PM GMT

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing Notice of Hearing, State Bar's Final Disclosures of Documents and Witnesses was sent by prepaid first-class regular and certified U.S. Mail to:

Brian C. Padgett, Esq.
611 S. 6th St.
Las Vegas, NV 89101

And via email to:

1. Brian C. Padgett, Esq. (Respondent): brian@briancpadgett.com
2. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 15th day of September, 2020.

By: Laura Peters
Laura Peters,
an employee of the State Bar of Nevada.



FILED

OCT 22 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

Case No: OBC19-1111

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
BRIAN C. PADGETT, ESQ.,)
Nevada Bar No. 7474)
)
Respondent.)

MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT

Complainant, State Bar of Nevada (hereinafter "State Bar") hereby moves to amend its Complaint against BRIAN C. PADGETT, Esq., (hereinafter "Respondent") in the interests of justice and protecting the public. This Motion is based upon the following Memorandum of Points and Authorities, the exhibits attached hereto, and upon such further evidence and argument as the Chair may request or entertain.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

1. On or about May 13, 2020 the State Bar filed its Complaint against Respondent.
2. The Complaint contained allegations of violations of Nevada Rules of Professional Conduct ("RPC") (1) 1.15 (Safekeeping Property); (2) 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers); and (3) 8.1 (Bar Admission and Disciplinary Matters).
3. On or about June 9, 2020, a Notice of Intent to Proceed on a Default Basis was filed.
4. On or about July 13, 2020, an Entry of Default was filed.

1 5. The State Bar made numerous attempts to personally serve Respondent throughout the
2 disciplinary process of the instant matter.

3 6. On or about October 15, 2020, a Formal Hearing for the instant matter was set to
4 commence at 9:00am Pacific Standard Time.

5 7. On or about October 15, 2020, at approximately 8:11am Pacific Standard Time,
6 Respondent emailed Assistant Bar Counsel Gerard Gosioco (hereinafter "ABC Gosioco") requesting
7 that the Formal Hearing be continued.

8 8. Ultimately, the Formal Hearing was continued.

9 9. Respondent's email was the first correspondence he had with the State Bar and/or ABC
10 Gosioco since on or about February 26, 2020, which pertained to Respondent's other cases, OBC19-
11 0604 and OBC19-0798.

12 10. The new allegations in the Amended Complaint are direct continuations of, or directly
13 pertain to, the allegations of the Complaint and/or the disciplinary process in the instant matter.

14 11. The new allegations are supported by what the State Bar considers clear and convincing
15 evidence that Respondent violated the Rules of Professional Conduct to an extreme degree, including,
16 but not limited to, conduct involving dishonesty, fraud, deceit, and/or misrepresentation. Each of
17 which supports a baseline sanction of disbarment.

18 **II. DISCUSSION**

19 **A. LEAVE TO AMEND SHOULD BE GRANTED UNDER NRCP 15**

20 Both Supreme Court Rule ("SCR") 105 and the Disciplinary Rules of Procedure are silent on
21 the matter of Amended Complaints. However, Nevada Rule of Civil Procedure ("NRCP") 15 states,
22 in relevant part:

23 Otherwise a party may amend the party's pleadings only by leave of
24 court or by written consent of the adverse party; and leave shall be freely
25 given when justice so requires.

1 NRCP 15 is made applicable to this proceeding pursuant to Supreme Court Rule ("SCR")
2 119(3) which states, [e]xcept as otherwise provided in these rules, the Nevada Rules of Civil Procedure
3 and the Nevada Rules of Appellate Procedure apply in disciplinary cases." Similarly, Disciplinary
4 Rule of Procedure ("DRP") 1(c) states, in pertinent part, "[e]xcept as otherwise provided in the
5 Supreme Court Rules (SCR), the Nevada Rules of Civil Procedure (NRCP) and Nevada Rules of
6 Appellate Procedure (NRAP) shall apply in disciplinary cases."

7 Here, the State Bar seeks permission to amend the Complaint to add allegations that are direct
8 continuations of, or directly pertain to, the allegations of the Complaint and/or the disciplinary process
9 in the instant matter. Justice requires said amendment as it will serve to accomplish the mission of the
10 State Bar and the Northern Nevada Disciplinary Board which is to protect the public, the courts, and
11 the legal profession. *See State Bar of Nevada v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-
12 528 (noting purpose of attorney discipline). If, as alleged, Respondent has conduct involving
13 dishonesty, fraud, deceit, and/or misrepresentation, violated or attempted to violate the Rules of
14 Professional Conduct through the acts of another, and/or knowingly assisted or induced another to
15 violate or attempt to violate the Rules of Professional Conduct. That behavior must be addressed as
16 promptly as possible to protect the public.

17 The State Bar has prepared an Amended Complaint, which is attached as Exhibit 1 hereto. The
18 Amended Complaint includes three (3) additional charges against Respondent.

19 III. CONCLUSION

20 For the reasons set forth above, the State Bar respectfully requests permission to file an
21 Amended Complaint in this matter in the interest of justice and protection of the public. The State Bar
22 requests any other relief which the panel chair finds necessary and appropriate in this matter.

23 DATED this 22nd day of October, 2020.

STATE BAR OF NEVADA
DANIEL M. HOOGE, BAR COUNSEL


/s/ Gerard Gosioco
Gerard Gosioco, Assistant Bar Counsel
Nevada Bar No. 14371
3100 West Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102
(702) 382-2200

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **MOTION FOR
LEAVE TO FILE AMENDED COMPLAINT** was deposited via electronic mail to:

1. Rich Williamson, Esq. (Panel Chair): rich@nvlawyers.com
2. Brian C. Padgett, Esq. (Respondent): brian.padgett@icloud.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

DATED this 22nd day of October, 2020.

By: 

Laura Peters, an employee of
the State Bar of Nevada.

Exhibit 1

Exhibit 1

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
 Complainant,)
 vs.)
)
 BRIAN C. PADGETT, ESQ.,)
 Nevada Bar No. 7474,)
)
 Respondent.)
 _____)

AMENDED COMPLAINT

TO: BRIAN C. PADGETT, Esq.
1672 Liege Drive
Henderson, NV 89012

PLEASE TAKE NOTICE that pursuant to Nevada Supreme Court Rule (“SCR”) 105(2) a **VERIFIED RESPONSE OR ANSWER** to this Complaint **must be filed** with the Office of Bar Counsel, State Bar of Nevada, 9456 Double R Blvd., Suite B, Reno, Nevada, 89521, **within twenty (20) days of service of this Complaint.** The procedure regarding service is addressed in SCR 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada (hereinafter “State Bar”) alleges that BRIAN C. PADGETT, Esq. (hereinafter “Respondent”), Nevada Bar No. 7474, is an active member of the State Bar, has been licensed to practice law in the State of Nevada since December 28, 2000, and at all times pertinent to this Complaint, had a principal place of business for the practice of law located in Clark County, Nevada.

2. Respondent has engaged in acts of misconduct in violation of the Nevada Rules of Professional Conduct (“RPC”), requiring disciplinary sanctions.
3. On or about September 3, 2019, the State Bar received a grievance from John Di Francesco, Robert Feron, and Jacalyn Feron (hereinafter “Grievants”) alleging that Respondent engaged in misconduct.
4. Grievants have owned commercial property (hereinafter “Subject Property”) along the Truckee River since approximately 1990.
5. On or about March 11, 2003, the Board of County Commissioners of Washoe County approved the Truckee River Flood Management Project (“TRFMP”) for the purpose of flood management.
6. The TRFMP was paired with an Early Land Acquisition Plan (“ELAP”) to acquire properties in the affected project areas.
7. On or about April 24, 2005, the Subject Property was added to the list of properties to be acquired under the ELAP.
8. On or about February 9, 2006, Grievants received a letter from the TRFMP stating its intent to acquire the Subject Property for the project.
9. On, about, or between May 12, 2006, and October 29, 2007, the TRFMP acquired nearly every property adjacent to the Subject Property.
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47. A search of Respondent's public pleadings revealed a third address for Respondent (1672 Liege Drive, Henderson, NV 89012) (hereinafter "Liege address").

48. On or about September 25, 2020, the State Bar requested that Nationwide Legal attempt to personally serve Respondent at the Liege address.

49. Nationwide Legal attempted to personally serve Respondent at the Liege address on or about (1) September 29, 2020, (2) October 1, 2020, and (3) October 3, 2020, but to no avail.

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55. On or about October 15, 2020, at approximately 8:11am Pacific Standard Time, Respondent emailed Assistant Bar Counsel Gerard Gosioco (hereinafter "ABC Gosioco") requesting that the Formal Hearing be continued.

56. Ultimately, the Formal Hearing was continued.

57. Respondent's email was the first correspondence he had with the State Bar and/or ABC Gosioco since on or about February 26, 2020, which pertained to Respondent's other cases, OBC19-0604 and OBC19-0798.

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60. Respondent also stated that his secretary mailed a notice of change of his address on or about February 28, 2020.

61. The State Bar has no record of such a request.

Count One

Rule 1.15 (Safekeeping Property)

62. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 60 as if fully incorporated herein.

63. RPC 1.15 states:

(a) A lawyer shall hold funds or other property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. All funds received or held for the benefit of clients by a lawyer or firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts designated as a trust account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property in which clients or third persons hold an interest shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the funds or other property as to which the interests are not in dispute.

64. Respondent negligently failed to keep accounting documents pertaining to Grievants after November 2016.

65. Respondent's misconduct resulted in injury and/or potential injury to his clients.

66. In light of the foregoing, including without limitation paragraphs 2 through 65, Respondent has violated RPC 1.15 (Safekeeping Property).

Count Two

Rule 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers)

67. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 65 as if fully incorporated herein.

68. RPC 5.1 states:

(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.

69. Respondent, having direct supervisory authority over Ms. Sugden, negligently failed to make reasonable efforts to ensure that Ms. Sugden conformed to the Rules of Professional Conduct in her representation of Grievants.

70. Respondent's misconduct resulted in injury and/or potential injury to his clients, as well as the profession.

71. In light of the foregoing, including without limitation paragraphs 2 through 70, Respondent has violated RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers).

Count Three

Rule 8.1 (Bar Admission and Disciplinary Matters)

72. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 70 as if fully incorporated herein.

73. RPC 8.1 states:

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

- (a) Knowingly make a false statement of material fact; or
- (b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

74. Respondent intentionally failed to respond to a lawful demand for information from Ms. Watson by failing to provide a supplement to his previously submitted incomplete response.

75. Respondent's misconduct resulted in injury to the profession.

76. In light of the foregoing, including without limitation paragraphs 2 through 75, Respondent has violated RPC 8.1 (Bar Admission and Disciplinary Matters).

Count Four

Rule 8.1 (Bar Admission and Disciplinary Matters)

77. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 75 as if fully incorporated herein.

78. RPC 8.1 states:

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

- (a) Knowingly make a false statement of material fact; or
- (b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

79. Respondent intentionally made a false statement of material fact by stating that Ms. Sugden was not subject to his supervision.

80. Respondent's misconduct resulted in injury to the profession.

81. In light of the foregoing, including without limitation paragraphs 2 through 80, Respondent has violated RPC 8.1 (Bar Admission and Disciplinary Matters).

Count Five

Rule 8.4 (Misconduct)

82. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 80 as if fully incorporated herein.

83. RPC 8.4 states:

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

84. Respondent intentionally engaged in conduct involving dishonesty, fraud, deceit and/or misrepresentation by claiming to have informed the State Bar of his address change in or around February 2020.

85. Respondent's misconduct resulted in injury to the profession.

86. In light of the foregoing, including without limitation paragraphs 2 through 85, Respondent has violated RPC 8.4 (Misconduct).

Count Six

Rule 8.4 (Misconduct)

87. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 85 as if fully incorporated herein.

88. RPC 8.4 states:

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

89. Respondent intentionally violated or attempted to violate the Rules of Professional Conduct through the acts of another and/or knowingly assisted or induced his secretary to violate or attempt to violate the Rules of Professional Conduct by submitting an affidavit from his secretary claiming that she mailed a notice of change of his address to the State Bar.

90. Respondent's misconduct resulted in injury to the profession.

91. In light of the foregoing, including without limitation paragraphs 2 through 90, Respondent has violated RPC 8.4 (Misconduct).

WHEREFORE, Complainant prays as follows:

92. That a hearing be held pursuant to SCR 105;

93. That Respondent be assessed the costs of the disciplinary proceeding pursuant to SCR 120(1); and

94. That pursuant to SCR 102, such disciplinary action be taken by the Northern Nevada Disciplinary Board against Respondent as may be deemed appropriate under the circumstances.

DATED this 22nd day of October, 2020.

STATE BAR OF NEVADA
DANIEL M. HOOGE, BAR COUNSEL

/s/ Gerard Gosioco

Gerard Gosioco, Assistant Bar Counsel

Nevada Bar No. 14371

3100 West Charleston Boulevard, Suite 100

Las Vegas, Nevada 89102

(702) 382-2200



FILED

OCT 27 2020

STATE BAR OF NEVADA
BY [Signature]

OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,

Nevada Bar No. 7474

Respondent.

ORDER GRANTING
MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT

On October 22, 2020, Complainant, State Bar of Nevada (hereinafter, "State Bar") filed a Motion for Leave to File Amended Complaint ("Motion") against Respondent Brian C. Padgett, Esq., (hereinafter, "Respondent"). Having reviewed the Motion and the applicable law, Hearing Panel Chair Richard D. Williamson, Esq. (hereinafter, "Hearing Chair") hereby finds as follows:

Procedural History

The State Bar filed its original Complaint against Respondent on or about May 13, 2020. Pursuant to Supreme Court Rule ("SCR") 79, the State Bar sent a copy of the Complaint via first class and certified mail to Respondent's listed address at 611 South 6th Street, Las Vegas, NV 89101. On or about June 21, 2020, both of those mailings were returned to the State Bar of Nevada's Reno office.

On or about June 9, 2020, the State Bar filed a Notice of Intent to Proceed on a Default Basis ("Notice"). Again, the State Bar sent a copy of that notice to Respondent's SCR 79 address. In addition, the State Bar also sent a copy of that Notice to Respondent's alternate address at 11274 Gammila Dr., Las Vegas, NV 89141 via first class and certified mail. That Notice directed Respondent to file a responsive pleading to the State Bar's Complaint by June 29, 2020.

1 On or about June 21, 2020, copies of the Notice sent to Respondent's SCR 79 address via
2 certified and first-class mail were returned to the State Bar of Nevada's Reno office marked
3 "Return to Sender." On or about July 6, 2020, copies of the Notice sent to Respondent's alternate
4 address were returned to the State Bar of Nevada's Reno office marked "Return to Sender, Unable
5 to Forward."

6 On July 10, 2020, the State Bar filed a Declaration of Service According to SCR 109(1) in
7 Support of Entry of Default ("Declaration"), which set forth the State Bar's efforts to serve
8 Respondent. A copy of that Declaration was also emailed to Respondent's email address of
9 brian@briancpadgett.com.

10 To date, Respondent has failed to file any responsive pleading. Accordingly, on or about
11 July 13, 2020, the Hearing Chair signed, and the State Bar filed, an Entry of Default against
12 Respondent. A copy of that Entry of Default was emailed to Respondent's email address of
13 brian@briancpadgett.com.

14 Pursuant to Rule 17 of the Disciplinary Rules of Procedure, the Hearing Chair scheduled
15 an initial conference with the parties for July 21, 2020 at 10:00 a.m. At that time and place, the
16 Hearing Chair met telephonically with Gerard Gosioco, Esq., Assistant Bar Counsel, on behalf of
17 the State Bar. Respondent, though formally noticed, was not present on the call. During that call,
18 the Hearing Chair scheduled: (1) a telephonic pre-hearing conference to occur on October 12,
19 2020 at 10:00 a.m., and (2) a formal hearing to occur on October 15, 2020, starting at 9:00 a.m.

20 The State Bar made numerous attempts to personally serve Respondent throughout this
21 disciplinary process. Respondent did not appear at the telephonic pre-hearing conference or the
22 formal hearing. According to the State Bar, however, on the morning of the formal hearing, at
23 approximately 8:11 a.m. Pacific Time, Respondent emailed Mr. Gosioco requesting that the
24 formal hearing be continued. Ultimately, in response to this request and to provide Respondent
25 with every opportunity to defend himself, the Formal Hearing was continued.

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According to NRC 15(a)(2), “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.”

The Hearing Chair further finds that the new allegations in the proposed Amended Complaint are direct continuations of, or directly pertain to, the allegations of the original Complaint and/or the disciplinary process in the instant matter. The Hearing Chair further finds that allowing the amendment will promote justice, serve to protect the legal process, and avoid duplicative disciplinary matters and proceedings. Overall, the Hearing Chair finds good cause to grant the Motion.

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As the original Complaint was already served in accordance with DRP 11(b)(1), the State Bar may serve the Amended Complaint pursuant to NRCP 5. See DRP 11(b)(3). In an abundance of caution, however, the State Bar is advised to mail a copy of the final Amended Complaint to

1 Respondent at all known addresses and also provide a courtesy copy of the Amended Complaint to
2 Respondent at the email address that he used on October 15, 2020.

3 Consistent with DRP 14, Respondent shall file a verified answer to the Amended
4 Complaint within twenty (20) calendar days of the date of mailing the Amended Complaint.

5 IT IS SO ORDERED.

6 Dated this 27th day of October, 2020.

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9 Richard D. Williamson, Esq.
10 Hearing Panel Chair
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that true and correct copies of the foregoing **Order Granting Motion for Leave to File Amended Complaint** was served electronically upon:

brian.padgett@icloud.com;

rich@nvlawyers.com; and

gerardg@nvbar.org.

Dated this 27th day of October 2020.

Laura Peters

Laura Peters, an employee of
the State Bar of Nevada



FILED

OCT 27 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

Case No: OBC19-1111

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

AMENDED COMPLAINT

TO: BRIAN C. PADGETT, Esq.
1672 Liege Drive
Henderson, NV 89012

PLEASE TAKE NOTICE that pursuant to Nevada Supreme Court Rule ("SCR") 105(2) a **VERIFIED RESPONSE OR ANSWER** to this Complaint **must be filed** with the Office of Bar Counsel, State Bar of Nevada, 9456 Double R Blvd., Suite B, Reno, Nevada, 89521, **within twenty (20) days of service of this Complaint.** The procedure regarding service is addressed in SCR 109.

GENERAL ALLEGATIONS

1. Complainant, State Bar of Nevada (hereinafter "State Bar") alleges that BRIAN C. PADGETT, Esq. (hereinafter "Respondent"), Nevada Bar No. 7474, is an active member of the State Bar, has been licensed to practice law in the State of Nevada since December 28, 2000, and at all times pertinent to this Complaint, had a principal place of business for the practice of law located in Clark County, Nevada.

2. Respondent has engaged in acts of misconduct in violation of the Nevada Rules of Professional Conduct (“RPC”), requiring disciplinary sanctions.
3. On or about September 3, 2019, the State Bar received a grievance from John Di Francesco, Robert Feron, and Jacalyn Feron (hereinafter “Grievants”) alleging that Respondent engaged in misconduct.
4. Grievants have owned commercial property (hereinafter “Subject Property”) along the Truckee River since approximately 1990.
5. On or about March 11, 2003, the Board of County Commissioners of Washoe County approved the Truckee River Flood Management Project (“TRFMP”) for the purpose of flood management.
6. The TRFMP was paired with an Early Land Acquisition Plan (“ELAP”) to acquire properties in the affected project areas.
7. On or about April 24, 2005, the Subject Property was added to the list of properties to be acquired under the ELAP.
8. On or about February 9, 2006, Grievants received a letter from the TRFMP stating its intent to acquire the Subject Property for the project.
9. On, about, or between May 12, 2006, and October 29, 2007, the TRFMP acquired nearly every property adjacent to the Subject Property.
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19. There is no documentation or stipulation extending or tolling the expiration of the Five-Year Rule.

20. Grievants were not aware of the Five-Year Rule, and its application to their civil case, until Ms. Sugden sent them an email on or about September 16, 2017.

21. On or about April 20, 2018, Grievants instructed Ms. Sugden to take depositions and to file a Motion in Limine.

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56. Ultimately, the Formal Hearing was continued.

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Count One

Rule 1.15 (Safekeeping Property)

62. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 60 as if fully incorporated herein.

63. RPC 1.15 states:

(a) A lawyer shall hold funds or other property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. All funds received or held for the benefit of clients by a lawyer or firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts designated as a trust account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property in which clients or third persons hold an interest shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of funds or other property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the funds or other property as to which the interests are not in dispute.

64. Respondent negligently failed to keep accounting documents pertaining to Grievants after November 2016.

65. Respondent's misconduct resulted in injury and/or potential injury to his clients.

66. In light of the foregoing, including without limitation paragraphs 2 through 65, Respondent has violated RPC 1.15 (Safekeeping Property).

Count Two

Rule 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers)

67. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 65 as if fully incorporated herein.

68. RPC 5.1 states:

(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.

69. Respondent, having direct supervisory authority over Ms. Sugden, negligently failed to make reasonable efforts to ensure that Ms. Sugden conformed to the Rules of Professional Conduct in her representation of Grievants.

70. Respondent's misconduct resulted in injury and/or potential injury to his clients, as well as the profession.

71. In light of the foregoing, including without limitation paragraphs 2 through 70, Respondent has violated RPC 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers).

Count Three

Rule 8.1 (Bar Admission and Disciplinary Matters)

72. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 70 as if fully incorporated herein.

73. RPC 8.1 states:

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

- (a) Knowingly make a false statement of material fact; or
- (b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

74. Respondent intentionally failed to respond to a lawful demand for information from Ms. Watson by failing to provide a supplement to his previously submitted incomplete response.

75. Respondent's misconduct resulted in injury to the profession.

76. In light of the foregoing, including without limitation paragraphs 2 through 75, Respondent has violated RPC 8.1 (Bar Admission and Disciplinary Matters).

Count Four

Rule 8.1 (Bar Admission and Disciplinary Matters)

77. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 75 as if fully incorporated herein.

78. RPC 8.1 states:

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

- (a) Knowingly make a false statement of material fact; or
- (b) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

79. Respondent intentionally made a false statement of material fact by stating that Ms. Sugden was not subject to his supervision.

80. Respondent's misconduct resulted in injury to the profession.

81. In light of the foregoing, including without limitation paragraphs 2 through 80, Respondent has violated RPC 8.1 (Bar Admission and Disciplinary Matters).

Count Five

Rule 8.4 (Misconduct)

82. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 80 as if fully incorporated herein.

83. RPC 8.4 states:

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

84. Respondent intentionally engaged in conduct involving dishonesty, fraud, deceit and/or misrepresentation by claiming to have informed the State Bar of his address change in or around February 2020.

85. Respondent's misconduct resulted in injury to the profession.

86. In light of the foregoing, including without limitation paragraphs 2 through 85, Respondent has violated RPC 8.4 (Misconduct).

Count Six

Rule 8.4 (Misconduct)

87. Complainant repeats and realleges the allegations contained in Paragraphs 1 through 85 as if fully incorporated herein.

88. RPC 8.4 states:

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (e) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

89. Respondent intentionally violated or attempted to violate the Rules of Professional Conduct through the acts of another and/or knowingly assisted or induced his secretary to violate or attempt to violate the Rules of Professional Conduct by submitting an affidavit from his secretary claiming that she mailed a notice of change of his address to the State Bar.

90. Respondent's misconduct resulted in injury to the profession.

91. In light of the foregoing, including without limitation paragraphs 2 through 90, Respondent has violated RPC 8.4 (Misconduct).

WHEREFORE, Complainant prays as follows:

92. That a hearing be held pursuant to SCR 105;

93. That Respondent be assessed the costs of the disciplinary proceeding pursuant to SCR 120(1); and

94. That pursuant to SCR 102, such disciplinary action be taken by the Northern Nevada Disciplinary Board against Respondent as may be deemed appropriate under the circumstances.

DATED this 27th day of October, 2020.

STATE BAR OF NEVADA
DANIEL M. HOOGE, BAR COUNSEL

/s/ Gerard Gosioco

Gerard Gosioco, Assistant Bar Counsel

Nevada Bar No. 14371

3100 West Charleston Boulevard, Suite 100

Las Vegas, Nevada 89102

(702) 382-2200

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LAW OFFICES OF BRIAN C. PADGETT
BRIAN C. PADGETT, ESQ.
Nevada Bar No. 7474
1672 Liege Drive
Henderson, Nevada 89012
Telephone: (702) 497-3204
Facsimile: (702) 368-0123
Email: brian.padgett@icloud.com



FILED

NOV 17 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA

Complainant,
vs.

Case No. OBC19-1111

BRIAN C. PADGETT, ESQ.
Nevada Bar No. 7474


Respondent,

**MOTION TO VACATE FILINGS, ORDERS AND DECISIONS - INCLUDING THE
AMENDED COMPLAINT; MOTION TO DISMISS AMENDED COMPLAINT**

RESPONDENT BRIAN C. PADGETT, ESQ. hereby submits this MOTION TO
VACATE DECISIONS OR ORDERS FILED AFTER FIRST COMPLAINT INCLUDING
THE AMENDED COMPLAINT; MOTION TO DISMISS AMENDED COMPLAINT. This
Motion is made pursuant to NRCP 60(b)(1) and (6) and NRCP 12(b)(3) and it is based upon

the following Memorandum of Points and Authorities.

Dated: November 16, 2020.



BRIAN C. PADGETT, ESQ.
Nevada State Bar No. 7474
1672 Liege Drive
Henderson, Nevada 89012

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF FACTS

On October 11, 2019, Respondent notified the State Bar that his law firm's server had been breached and approximately half of the Firm's archived emails were deleted from the server without his knowledge. **Exhibit 1.** This included many of those emails needed to respond to the State Bar's investigation and subsequent Complaint that is the subject of this Motion.

Because of the breach and impaired email service subsequent to the breach, it was recommended by retired FBI Special Agent and Certified Fraud Investigator, John M. Elliott, that the Law Firm should work out of Appellant's home office at 1672 Liege Drive in Henderson, Nevada, full time until the server could be secured and certain cases personally involving Respondent were concluded. **Exhibit 2.** It was believed that the breach came from former employees Amy Sugden and Ian Ritchie and Respondent informed the Bar of this both in his October 11, 2019 correspondence and his mailed February 24, 2020 response to the State Bar Complaint in two separate matters. **Exhibit 3.**

Respondent's law firm computer server was breached again in February 2020, and it was found that many PDF and Word documents were also stripped from the server. At that time, the

1 decision was then made to take Mr. Elliott's direction and move full time to Respondent's home
2 office and work from flash drives and computer hard drives.

3 As the Law Office made the move, Respondent's secretary, Connie P. Little mailed the
4 State Bar a notice of change of address for USPS mail purposes – temporarily changing the Law
5 Firm address to Respondent's home office at 1672 Liege Drive, Henderson, Nevada 89012.

6 **Exhibit 4.** For the rest of 2020, Law Firm mail was received at Appellant's home office.

7 **Exhibit 5.**

8
9 Shortly thereafter, in March 2020, Respondent's office email stopped delivering mail to
10 Law Firm staff. Respondent tried to restore the law office email quickly but found, with COVID-
11 19, it became extremely difficult to schedule tech support because they were flooded with demands
12 from many companies to help their employees work from home. **Exhibit 6.**

13 Subsequently, and before the Firm could receive repair service, Respondent lost an uncle,
14 the computer technician quarantined for COVID and Appellant got sick himself. **Exhibit 7.** It
15 wasn't until September 2020, before the Firm could safely get tech repair service and the email
16 became operable and began to repopulate itself. **Exhibit 8.** It is still not known what, if any, emails
17 are missing and failed to repopulate.
18

19 Respondent was not served with a copy of the Complaint in OBC19-1111 or any
20 subsequent documents in this matter until October 2020 – despite providing Complainant with
21 Respondent's new office address in February 2020.¹ Without proper notice of deadlines and
22

23
24 ¹ In October 2020, Counsel for Complainant says that for the first time he went online to the
25 Eighth Judicial District Court's website and found Respondent's home office address from
Respondent's filed pleadings.

26 However, he also says saw that Respondent filed a Complaint this summer and the pleading
27 paper had the downtown law office address on it. It should be noted that working from
28 Respondent's home office is a temporary condition and therefore letterhead and template
addresses were not permanently changed on letterhead and pleading paper. This is no different
that the Complainant noting in all Bar emails that staff is working from home during the

1 filings, Respondent has been substantially prejudiced and unable to defend himself because he had
2 no knowledge of this case. When Respondent was made aware of the proceedings, he got in touch
3 with Assistant Bar Counsel via correspondence and explained the facts as set forth herein. While
4 the disciplinary hearing was held in abeyance, Associate Bar Counsel requested proof of
5 Respondent's uncle's passing, Respondent's own medical condition in violation of HIPAA laws
6 and more. All this despite Respondent being a member of the Bar in good standing for
7 approximately 20 years.
8

9 Then, well before the time given to prove up these contentions, Associate Bar Counsel
10 sought leave to file an Amended Complaint which was granted even though the rules do not allow
11 for same. This Amended Complaint added charges without giving Respondent the opportunity to
12 prove up his contentions. Further, this Amended Complaint did not come with a list of members
13 ("Designation of Hearing Panel Members) of the Disciplinary Board pursuant to Rule 13 of the
14 Disciplinary Rules of Procedure. This left Respondent unable to participate in the makeup of the
15 hearing panel and automatically violates his due process rights in this case going forward.
16

17 LEGAL ARGUMENT

18 **1. NEVADA COURTS HAVE A LONG HISTORY OF PROTECTING THE DUE** 19 **PROCESS RIGHTS OF PARTICIPANTS IN CIVIL ACTIONS**

20 Nevada courts have a history of protecting the due process rights of participants in civil
21 actions. Decisions made in absence of one party are not favored by the law. As stated by the
22 Nevada Supreme Court in *Franklin v. Bartsas Realty, Inc.*, 95 Nev. 561, 598 P.2d 1147 (1979):
23

24 [It is] the basic policy of each case decided upon its merits. In
25 the normal course of events, justice is best served by such a policy.
Because of this policy, the general observation may be made that an appellate court is
more likely to affirm a lower court's ruling setting

26 COVID-19 pandemic and still keeping the 3100 W. Charleston Blvd. address on their email and
27 letterhead even though they note they might not receive mail at that address. **Exhibit 9.**
28

1 aside a default judgment than it is to affirm a refusal to do so.

2 95 Nev. at 563 (Emphasis in original). *See also McNair v. Rivera*, 110 Nev. 463, 471, 874 P.2d
3 1240 (1994).

4 Furthermore, Section 1019 of the *Nevada Civil Practice Manual* (Third Edition 1993)
5 entitled "The Notice of Hearing" states: "The failure to give notice and provide a hearing is a
6 fatal procedural error because without proper notice the judgment is void and will be set aside.
7 *Id.* at 158.

8 There is long standing precedent in our country that requires a judgment taken without
9 any notice be set aside. The Supreme Court of the United States has held that a meritorious
10 defense need not be shown where a default or default judgment is entered without any notice to
11 the defendant. *See Peralta v. Heights Center, Inc.*, 485 U.S. 80, 108 S. Ct. 896, 99 L.Ed. 2d. 75
12 (1988). Nevada has long held to this precept as an essential due process right for all parties and
13 it is applicable here to protect the due process rights of the Respondent.
14

15
16 **2. THE HEARING PANEL'S DECISIONS SINCE FILING THE FIRST**
17 **COMPLAINT – INCLUDING THE AMENDED COMPLAINT - SHOULD BE**
18 **VACATED PURSUANT TO NRCP 60(B)(1)**

19 "The salutary purpose of Rule 60(b) is to redress any injustices that may have resulted
20 because of excusable neglect or the wrongs of an opposing party." *See Rodriguez v. Fiesta*
21 *Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255,257 (2018), *quoting Nev. Indus. Dev., Inc. v.*
22 *Benedetti*, 103 Nev. 360, 364, 741 P.2d 802 (1987). NRCP 60(b) provides the Court with
23 authority to relieve Respondent from the hearing panel's decision:

24 On motion and upon such terms as are just, the court may relieve a party on a
25 party's legal representative from a final judgment, order, or proceeding for the
26 following reasons: (1) mistake, inadvertence, surprise, or excusable neglect;

27 *See* NRCP 60(b)(1).
28

"Once a proper showing of mistake, inadvertence, surprise or excusable neglect has been made by the movant . . . Rule 60(b) is to be liberally interpreted in favor of setting aside judgments." *Id.*, citing *Smith v. Widman Trucking & Excavating, Inc.*, 627 F.2d 792, 795 (7th Cir.1980). "The district court has wide discretion in deciding whether to grant or deny a motion to set aside a judgment under NRCP 60(b)." *See Rodriguez*, 134 Nev. 654, 656, 428 P.3d 255, 257 (2018). "'Its determination will not be disturbed on appeal absent an abuse of discretion.'" *Id.*, quoting *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996).

The threshold inquiry for this Court to determine whether relief under NRCP 60(b)(1) is appropriate is to analyze the *Yocham* Factors: "(1) a prompt application to remove the judgment; (2) the absence of an intent to delay the proceedings; (3) a lack of knowledge of procedural requirements; and (4) good faith." *Id.* at 657, 428 P.3d at 257, quoting *Yocham v. Davis*, 98 Nev. 484, 486-487, 653P.2d 1215, 1216-1217 (1982), overruled for other reasons; *Epstein v. Epstein*, 113 Nev. 1401, 1405, 950 P.2d 771, 772 (1997) (tender of a meritorious defense to claim for relief was no longer required to support a NRCP 60(b)(1) motion). "[W]hen evaluating an NRCP 60(b)(1) motion, the district court must consider the state's underlying basic policy of deciding cases on the merits whenever possible." *Id.*, quoting *Stoecklein v. Johnson Elec., Inc.*, 109 Nev. 268, 271, 849 P.2d 305, 307 (1993).

A. Analysis of *Yocham* factors.

1. PROMPT APPLICATION TO REMOVE THE JUDGMENT

Respondent quickly moved to gain relief from the hearing panel's decisions as soon as he was made aware of them. This Motion was filed within the mandatory time requirements set forth in NRCP 60(c)(1), which mandates motions filed pursuant to NRCP 60(b) "must be made within a reasonable time - and ... (3) no more than six (6) months after the date of the

proceeding or the date of service of written notice of entry of judgment or order, whichever date is later. *Id.*

2. THE ABSENCE OF AN INTENT TO DELAY THE PROCEEDINGS

Respondent is not trying to delay the proceedings. As soon as he found out about the proceedings he got in touch with the Complainant and requested to participate fully in this matter according to his due process rights to do so. If anything, granting Respondent's relief requested - which case law overwhelmingly favors - will ensure the case is heard on the merits and will require fewer motions for remediation purposes.

3. LACK OF KNOWLEDGE OF PROCEDURAL REQUIREMENTS

This requirement is not applicable under the specific circumstances under which Respondent brought his Motion.

4. GOOD FAITH

This Motion is brought before the Disciplinary Chair in good faith and for justifiable cause.

3. THE HEARING PANEL'S DECISIONS SINCE FILING THE FIRST COMPLAINT - INCLUDING THE AMENDED COMPLAINT - SHOULD BE VACATED PURSUANT TO NRCP 60(B)(6)

Persuasive Federal law interpreting FRCP 60(b)(6) strongly suggests that it is appropriate for the Disciplinary Chair to vacate the Amended Complaint and all decisions or rulings coming after the filing of the Complaint pursuant to NRCP 60(b)(6). The threshold requirements for the Court to consider the Respondents' relief requested is discussed above. As such, courts have concluded "[t]he amendments to NRCP 60(b) incorporate FRCP 60(b)(6), which enables courts to provide relief when it is justified and NRCP(b)(1 - 5) do not apply. 27-JUN NVLAW 8. Therefore, notwithstanding NRCP 60(b)(1), this is a case where

1 extraordinary circumstances warrant the vacation of the Amended Complaint and all
2 decisions or rulings coming after the filing of the Complaint addressed in this Motion to
3 prevent a manifest injustice.

4
5 **4. THE AMENDED COMPLAINT SHOULD BE DISMISSED PURSUANT TO
NRCP 12(B)(3)**

6 The Rules of Disciplinary Procedure do not provide for the filing an Amended
7 Complaint. Therefore, the Amended Complaint should be set aside in its entirety for
8 insufficient process pursuant to NRCP 12(b)(3).
9

10 **5. ALLOWING COMPLAINANT TO FILE AN AMENDED COMPLAINT DOES
NOT CURE THE PREJUDICE SUFFERED BY RESPONDENT**

11 The Complainant failed to serve the original Complaint upon Respondent at the outset of
12 this case (despite the Respondent's notice of address change). The Complainant then took a
13 default judgment against Respondent without his knowledge and proceeded forward with the
14 case against him – right to the doorstep of a disciplinary hearing. All decisions and rulings made
15 since the start of this case have occurred without the participation of the Respondent and must be
16 set aside pursuant to NRCP 60(b)(1) and (6) and 12(b)(3).
17


18 The filing of an Amended Complaint (with additional charges added) by Complainant
19 and allowing Respondent to answer the amended pleading does not cure the prejudice to
20 Respondent as set forth above. Therefore, all pleadings in this case must be set aside pursuant to
21 NRCP 60(b)(1), (6) and NRCP 12(b)(3) in order to ensure that Respondent is not prejudiced and
22 the case is heard on the merits.
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CONCLUSION

Based upon the facts and argument set forth herein it is respectfully requested that the Respondent be given the relief requested so that he may be accorded full due process and be heard on the merits.

Dated this 16th day of November, 2020.


BRIAN C. PADGETT, ESQ.
Nevada Bar No. 7474
1672 Liege Drive
Henderson, Nevada 89012

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of November, 2020, I served the foregoing

**MOTION TO VACATE DECISIONS AND ORDERS FILED AFTER FIRST
COMPLAINT INCLUDING THE AMENDED COMPLAINT; MOTION TO DISMISS
AMENDED COMPLAINT**

by emailing a true and correct copy thereof to the State Bar of Nevada and addressed to the
attention of the Disciplinary Chairman, Associate Bar Counsel and Louise Watson, CP.


Employee of the Law Offices of BRIAN C. PADGETT

EXHIBIT 1

Fwd: Extension Request to Monday 10/14 at 12:00pm: DiFrancesco Case

November 16, 2020 at 10:07 PM

From Brian Padgett

To Brian Padgett

📎 A9E75E53-2...A27871BFA3.png 20.17 KB, 📎 02FB6BDA-A...92526E8853.png 31.41 KB,
📎 0BA33676-1...52CA6B8A41.png 30.65 KB, 📎 09B7C04A-9...FC61B27F33.png 23.11 KB,
📎 AE5C1DE7-3...CC0A92B4E6.png 26.04 KB, 📎 A9E75E53-2...A27871BFA3.png 20.17 KB,
📎 02FB6BDA-A...92526E8853.png 31.41 KB, 📎 0BA33676-1...52CA6B8A41.png 30.65 KB,
📎 09B7C04A-9...FC61B27F33.png 23.11 KB, 📎 AE5C1DE7-3...CC0A92B4E6.png 26.04 KB

BCP

On iPhone

Begin forwarded message:

From: Brian Padgett <brian@briancpadgett.com>

Date: October 11, 2019 at 11:30:59 PM PDT

To: "louisew@nvbar.org" <louisew@nvbar.org>

Cc: Cathy Ramsey <cathy@briancpadgett.com>

Subject: Extension Request to Monday 10/14 at 12:00pm: DiFrancesco Case

Dear Ms. Watson,

When attorney Amy Sugden and her ACE Legal, LLC was terminated as an independent contractor affiliated with my firm in March 2019 she deleted more than 9 years of her emails from our server and we could not access nor recover these emails. This made answering the State Bar's request for information extremely difficult as her emails contained a significant amount of important correspondence related to the DiFrancesco case.

In order to address the lost emails, we hired a technology services firm – ANAX Technology – to see if we could recover the data.

Today at 7:06am, after much care on their part, ANAX sent me a message that they spoke again with Microsoft Office 365 Support and despite all of the avenues they traveled to try and recover the data Microsoft advised that they could not recover deleted email over 14 days old.

I believe we have some specific email correspondence right on point from the clients – Mr. DiFrancesco and Mr. Feron – that will shed more light on the true and correct reason why they

filed suit against my office and Ms. Sugden.

ANAX is coming back to my office tomorrow at 2:30pm to try another avenue outside of Microsoft Office 365 Support.

Therefore, I am requesting an extension of time to file our responsive brief until 10/14 at 12:00pm.

Thank you for your consideration of this request. I understand you are out of the office until Monday so, unless I hear otherwise from you, we will continue forward with ANAX and be prepared to tender our Response to the State Bar on 10/14 at 12:00pm.

Best regards,

Brian C. Padgett

Law Offices of Brian C. Padgett
611 South 6th Street
Las Vegas, Nevada 89101
(702) 304-0123
www.briancpadgett.com



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EXHIBIT 2

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DECLARATION OF JOHN M. ELLIOTT

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

I, JOHN M. ELLIOTT, being first duly sworn, do hereby swear under penalty of perjury to the following:

1. I am a resident of the State of California.
2. I am the President and CEO of Elliott Investigative Services, Inc.
3. I am a retired FBI Special Agent with more than 25 years of service.
4. I am also a Certified Fraud Examiner.
5. My firm was hired by Mr. Padgett in February 2020 to investigate an alleged fraudulent corporate takeover of Mr. Padgett's marijuana company, CWNevada, LLC.
6. Thereafter, I flew to Las Vegas, Nevada and I met with Mr. Padgett at his home office to begin my investigation.
7. I found that Mr. Padgett was working primarily out of his home office and from flash drives rather than access his server as it had been breached and many of his corporate documents and emails had been erased from the server.
8. During my stay in Las Vegas, Nevada, I worked out of Mr. Padgett's home office due to my concerns that the integrity of his downtown law office security was compromised.
9. Based on interviews and evidence I uncovered, I became concerned about the safety of Mr. Padgett and his staff and I suggested that they continue to work out of his home office - and avoid his downtown law office - until the case was concluded.

1
2 10. Based upon evidence I uncovered, I have reason to believe that some of the same
3 individuals involved in the fraudulent takeover of Mr. Padgett's marijuana company
4 are also involved in promulgating Bar Complaints against him – including attorney
5 Amy Sugden and Complainant Ian Ritchie.

6 11. As the investigation remained ongoing I advised Mr. Padgett to ask for a stay of
7 answering the Bar Complaints against him rather than divulge any material information
8 found during my investigation.

9 12. I have reason to believe that charges against Mr. Padgett, who had no past Complaints
10 filed against him by the State Bar - nor civil charges – were manufactured against him
11 in an effort to take is marijuana licenses from him as majority owner of CWNevada,
12 LLC.
13

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing statements are true and correct to the best of my knowledge.
16

17 Executed this _____ day of November, 2020.
18
19

20 _____
21 JOHN M. ELLIOTT
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EXHIBIT 3



February 24, 2020

Gerard Gosioco
Office of Bar Counsel
State Bar of Nevada
3100 W. Charleston Blvd., Ste. 100
Las Vegas, NV 89102

Re: Grievance File No. OBC19-0604/Bruce Familian
Grievance File No. OBC19-0798/Ian Ritchie

Dear Mr. Gosioco:

I am the majority owner of a privileged license cannabis firm CWNevada, LLC. I am also the owner of the Law Offices of Brian C. Padgett and have been defending Nevada Landowners in eminent domain proceedings for eighteen years.

During that time I have had only one Bar complaint filed against me – early in my career - and after I responded to questions from Bar Counsel the case was closed in my favor. Therefore, I was surprised this summer when I learned there had been three (3) Bar complaints filed against me at roughly the same time period. I don't believe in coincidences.

At that same time these complaints were filed, my cannabis company was in the midst of a hostile, fraudulent corporate take-over as orchestrated by investors, disgruntled partners, and possible overt and covert assistance from members of certain State agencies. That battle remains ongoing.

The conspiratorial behavior of the parties to this scheme was designed to take over the company, seriously diminish the value of CWNevada, LLC and then offer the weakened and degraded company for sale with the initial offer being substantially below market value so they can acquire the company for themselves.

This has necessitated hiring a retired FBI Special Agent with more than 20 years of federal law enforcement service to launch an investigation and then coordinate with local and state law enforcement agencies. This individual is also a Certified Fraud Examiner, certified by the Association of Certified Fraud Examiners.

As this investigation has been ongoing, there is now concern that the complainants and/or other actors may be involved in these Grievances. For example, all cases in issue herein were handled by attorney Amy Sugden who had been an employee of my law office for nine (9) years before termination and is believed to have engaged in corporate espionage to assist in the takeover of CWNevada which includes damaging my standing in the practice of law.

As a further example, one of the complainants, Ian Ritchie, was the Director of Security for CWNevada who was also terminated for conduct detrimental to the company. Amy Sugden represented Mr. Ritchie on a pro-bono basis until such time as it became clear that Mr. Ritchie was in the employ of the certain company investors that were trying to take over the company. Thereafter, I demanded she withdraw herself and my office as counsel in the case. I believe she silently prepared and filed the Bar complaint on behalf of Mr. Ritchie.

Both of these individuals were named as co-conspirators to illegal conduct in the CWNevada case for the first time this morning. I have attached the filed pleading for your review.

I have been directed by the retired FBI Special Agent to refrain from filing an Answer in this matter until such time as the investigation is concluded as he has significant concern regarding these Grievances and the underlying motivations for prosecution.

Mr. Gosioco, if you have any further questions let's schedule time for a call so we can discuss next steps.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian C. Padgett", with a long horizontal line extending to the right.

Brian C. Padgett

SUBSCRIBED AND SWORN BEFORE ME
this ____ day of February, 2020.

NOTARY PUBLIC

EXHIBIT 4

1
2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

5 I, CONNIE PATRICE LITTLE, being first duly sworn, do hereby swear under penalty of
6 perjury to the following:

- 7
8 1. I am a resident of the State of Nevada.
9
10 2. I was employed by the Law Offices of Brian C. Padgett from July 2019 - June 2020.
11
12 3. In the Fall of 2019 it was discovered that the Law Firm's server had been breached
13 and approximately half of the Firm's archived emails were deleted from the corporate
14 server without our knowledge.
15
16 4. Because of the breach and the irregular email service we encountered in Fall of 2019
17 it was recommended by a security expert that the Firm should work out of Mr.
18 Padgett's home office at 1672 Liege Drive, Henderson, Nevada 89012 until the the
19 server could be better protected and Mr. Padgett's personal case, A-17-755479-B,
20 was concluded.
21
22 5. The Firm server was breached again in February 2020 and the decision was then
23 made to move the office to Mr. Padgett's 1672 Liege Drive home office.
24
25 6. On February 28, 2020, I mailed a notice of change of the Law Firm's address to the
26 Nevada State Bar at Mr. Padgett's request.
27
28

///


///

///

1
2
3 7. That new address I gave to the State Bar was 1672 Liege Drive, Henderson, NV
4 89012.

5 I declare under penalty of perjury under the laws of the State of Nevada that the
6 foregoing statements are true and correct to the best of my knowledge.

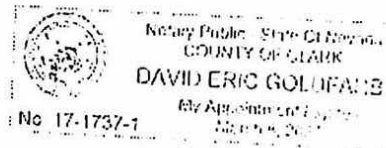
7 Executed this 14 day of October, 2020.

8
9
10 
11 CONNIE P. LITTLE

12 SUBSCRIBED AND SWORN BEFORE ME
13 this 14 day of October, 2020.

14 

15 NOTARY PUBLIC



This is a look
confirmation for
my Affidavit Date
10/14/20

EXHIBIT 5

**Brownstein Hyatt
Farber Schreck**

100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106

Brian C. Padgett
1672 Liege Drive
Henderson, NV 89012

6501267246 F0005



PRINTED ON
\$ 000.50

LEE, HERNANDEZ, LANDRUM
& CARLSON APC
7575 Vegas Dr. Ste. 150
Las Vegas, NV 89128

408-256-2005
408-256-2006
25-1000-20
FAX 212

6 000 600

Brian C. Padgett
1672 Liege Dr.
Henderson, NV 89012

89012-724572

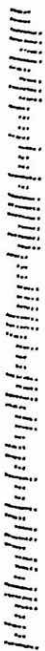


EXHIBIT 6

1
2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

5 I, LAUREL DE LA CRUZ, being first duly sworn, do hereby swear under penalty of
6 perjury to the following:

- 7 1. I am a resident of the State of Nevada.
8 2. I am an independent contractor and have worked on projects for the Law Offices of
9 Brian C. Padgett beginning in 2018.
10 3. In the Fall of 2019 it was discovered that the Law Firm's server had been breached
11 and approximately half of the Firm's archived emails were deleted from the server
12 without the Firm's knowledge.
13 4. By the time the breach was discovered, the emails were unable to be recovered.
14 5. Because of the breach and irregular email service subsequent to the breach it was
15 recommended by a security expert that the Law Firm work out of Mr. Padgett's home
16 office at 1672 Liege Drive in Henderson, Nevada until the server could be secured
17 and certain cases involving Mr. Padgett were concluded.
18 6. The Firm's server was breached again in February 2020 and the decision was then
19 made for Mr. Padgett to work primarily at of his home office.
20 7. Shortly thereafter, in March 2020, the Firm's office email stopped delivering mail to
21 the Law Firm address.
22 8. After Mr. Padgett began working primarily from his home office, I was in touch with
23 an IT firm to review and resolve the Firm's server and email issues.
24 9. As a result of COVID-19, it became extremely difficult to book tech support service
25 which had to be done at both Mr. Padgett's home and the law office.
26
27
28

10. I was told by the IT companies I spoke with that it could take an "undetermined" amount of time to receive service as many companies were attempting to establish "work from home" capabilities for their employees.
11. When demand for IT service began to settle down, the technician that was scheduled to perform service came into contact with someone that was diagnosed with COVID-19.
12. A decision was then made by Mr. Padgett to wait for the technician to recover before scheduling him to come to the office for assistance.
13. Mr. Padgett got sick after that.
14. It wasn't until September 2020 before the Firm could safely get IT service and email restored.
15. I am aware that the Firm sent a notice of change of address to the State Bar of Nevada on or about February 28, 2020.
16. Between March – September 2020, I am aware that Mr. Padgett has received mail from clients and accepted service of process at his home office address.
17. Between March – September, 2020, no postal mail was received by the Firm from the State Bar of Nevada.
18. Between March – September 2020, no electronic mail was received by the Firm from the State Bar of Nevada until the Firm's email was restored.
19. Between March – September 2020 no personal service was had upon any member of the Firm by the State Bar of Nevada.

///

///

20. As such, I was not aware the State Bar had proceeded forward with disciplinary proceedings against Mr. Padgett until I was notified by a third party very recently

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing statements are true and correct to the best of my knowledge.

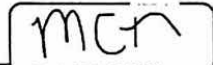
Executed this 14th day of October, 2020.

Laurel Amy Delacruz

Signed on 2020/10/14 22:23:30 -8:00

LAUREL DE LA CRUZ

SUBSCRIBED AND SWORN BEFORE ME
this 14th day of October, 2020.



NOTARY PUBLIC

M CARMEN TREVINO
NOTARY PUBLIC
STATE OF NEVADA
Commission # 15-3033-1
My Appt. Expires September 11, 2023

Notary State 2020/10/14 22:23:30 PST

DOC 062002718



Affidavit - Laurel Amy De La Cruz

DocVerify ID: E2A4CC0C-2874-441A-9852-459C245488DF
 Created: October 14, 2020 22:06:43 -8:00
 Pages: 3
 Electronic Notary: Yes / State: NV - Notarial act performed by means of audio-communication

[Faint, illegible text, likely a signature or stamp]

E-Signature Summary

E-Signature 1: Laurel Amy Delacruz (LDC)
 October 14, 2020 22:23:30 -8:00 [26D6352FDDF2] [70.189.215.170]
 laurel.delacruz3@gmail.com (Principal)

E-Signature Notary: M Carmen Trevino (MCT)
 October 14, 2020 22:23:30 -8:00 [D0E6B0263716] [70.189.215.170]
 info@ReliableMobileNotaryLV.com
 I, M Carmen Trevino, did witness the participants named above
 electronically sign this document.

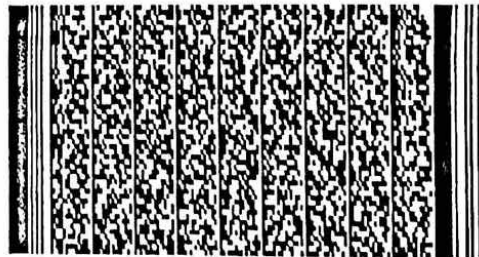


EXHIBIT 7



Rudolph

Stephen Berus

Dec 7, 1938 -

May 6, 2020

Longtime Alaskan Rudolph Stephen Berts died peacefully at his Anchorage home surrounded by family on May 6. Services will be held at a later date when such gatherings are allowed. Rudolph "Rudy" was born on Dec. 7, 1938.

in Wheeling, W.Va., to

Rudolph A. and Stephana Berus. He graduated from St. John Central High School in St. Bellaire,

Ohio, in 1956. He moved to Alaska in 1960, and was employed by Consolidated Freightways as a line truck driver. In the winters he was

a ski instructor for Gary King Ski School at Alyeska Resort. It was at Alyeska that he met his future wife, Marianne Keenan. They married in 1967.

In 1966, Rudy enrolled in Northrup Institute of Technology in Los Angeles, Calif., graduating with a degree in mechanical engineering in 1970. Shortly thereafter he commenced a long and distinguished

career of federal service.

His first significant job was a position of overseeing on behalf of the U. S. Government, the construction of a section of the trans-Alaska pipeline. He then

accepted a position with the U.S. Fish and Wild Service.

His first assignment was to establish the engineering office. While at USF&W he supervised many challenging and innovative projects including the construction of the R/V Tiglax, a 118

foot research and support ship that often sails the Alaska waters from Southeast to Aleutians, Bristol Bay and the Bering Sea.

His next position was with the Department of the Interior's Office of Aircraft

Services (OAS) located

at Lake Hood in Anchorage. As many as 30 people worked under his supervision and he was responsible for the maintenance, operation and development of approximately fifty aircraft of all descriptions. While at OAS he designed and supervised the construction of their new office/hanger building.

He was an active private pilot for 50 years, flying numerous aircraft from his first plane, a Taylor Craft, and ending up with his beloved Cessna 185 float plane. He and his family have fond memories of their times at their cabin on Trapper Lake. Rudy was an accomplished carpenter,

cabinet maker and wood

turner, creating many objects in use today at Holy Family Cathedral, including the pulpit and an extension to the altar.

In retirement Rudy enjoyed flying and wood turning. He especially enjoyed the Wednesday lunches with the "Over the Hill" gang and drinking Hamm's beer with his pals at his float shack on Lake Hood. He was active in the Alaska Wood Turners Association.

He was very active at his church, Holy Family Cathedral. He served as a Eucharistic Minister, a Reader and sat on the Parish

Council. A most significant contribution was his volunteer service as Construction

Manager of the recently

completed \$4 million dollar Parish Rectory.

He was predeceased by his parents. He is survived by his wife of 52 years, Marianne; his son, Daniel of Phoenix, Ariz.; his daughters, Teresa Betus and Jolene Kulberg (Kirk) of Anchorage; his three grandsons, Blake and Eli Kulberg and Gabriel Betus; his sister, Dr. Mary Regina Lennette (Chuck) of Bridgeport, Ohio; his brother, Francis of St. Clairsville, Ohio; and several nieces and nephews.



Transsen Funeral Homes, Inc.
European Memorial Chapel
Mobile Overlook Center
European 1 Day Home
Jensen's West-End Funeral Home
LOCALLY OWNED

Your COVID-19 Test Results are Ready

September 3, 2020 at 6:25 PM

From noreply@doineedacovid19test.com

To brian.padgett@icloud.com

• Dear Brian,

The results of your recent COVID-19 test are ready. To access your results, please log into the account you created during registration. You will need to use the Username and Password you created for your personal account at www.doineedacovid19test.com.

Querido Brian,

Los resultados de su reciente prueba COVID-19 están listos. Para acceder a sus resultados, inicie sesión en la cuenta que creó durante el registro. Deberá utilizar el nombre de usuario y la contraseña que creó para su cuenta personal en www.doineedacovid19test.com.

EXHIBIT 8

Invoice	509670
Date:	9/15/2020
Due Date:	9/15/2020
Terms:	Due Upon Receipt

Bill To:

Law Offices of Brian C. Padgett
611 S. 6th St
Las Vegas, NV 89101

Service Location:

Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, NV 89101

Date	Qty	Description	Amount
9/3/2020		<p>created.</p> <ul style="list-style-type: none"> - Asked the tech if this would delete the existing 36 GB of email showing in Brian's mailbox usage stat from the Exchange admin panel. The tech said he could not guarantee it. - Mailbox shows a being created. The apps are available at office.com. Outlook online isn't showing the mailbox. - Ended the support call. <p>Called/texted Mr. Padgett to let him know to turn off wifi on his Macbook and force quit Outlook just in case the old email isn't present when the mailbox is created at Microsoft. The hope is to create a PST and add old email into the Exchange online mailbox if the old email isn't present in the new mailbox.</p> <ul style="list-style-type: none"> - Kept checking on the mailbox usage stat. Took about 10 minutes to show a created mailbox with ~36 GB of space used. Checked Outlook online, old email and a folder structure is present. Sent a text to Brian to let him know the old email is present. 	

Thank you for your business. Please write invoice number(s) on check to ensure proper credit.

We accept these credit cards:



For after-hours emergency service, please call and press option 1 to leave a voicemail for an on-call technician.

Sales Tax (8.375%)	\$0.00
Total	\$285.00
Payments/Credits	\$0.00
Due	\$285.00

Invoice	509670
Date:	9/15/2020
Due Date:	9/15/2020
Terms:	Due Upon Receipt

Bill To:
Law Offices of Brian C. Padgett 611 S. 6th St Las Vegas, NV 89101

Service Location:
Law Offices of Brian C. Padgett 611 S. 6th St. Las Vegas, NV 89101

Date	Qty	Description	Amount
9/1/2020		iCloud. In addition to events that are emailed there can be events that are pushed out by an assailant. - Let Brian know the events can be pushed to the calendar without an acceptance from an email invite. Went over the two workarounds I found. We will cover these at our next meeting as well as discuss server/firewall/router/WiFi issues at the office. Scheduling for later this week.	
9/2/2020	0.25	Ticket 67447: "Mr. Padgett called. The office router and a few other issues need to be addressed." Spoke with Microsoft support regarding the license not propagating. - The tech could not find an immediate answer. He said they are having issues with connectivity to the tools he would use and will call back. - Call is scheduled for tomorrow between 8 and 9 am.	23.75
9/3/2020	0.75	Ticket 67447: "Mr. Padgett called. The office router and a few other issues need to be addressed." Call with Microsoft Support. - Tech had me check billing, which is good. - Went through the products. Having the current month to month only and the expired month to month annual both in the account will not cause a problem. - Checked office.com. This showed no Office online apps. - Checked outlook.com. It still says the mailbox does not exist. - We checked the user and licensing. Good. - Removed/added the license from Mr. Padgett's account. No change at office.com or outlook.com. - Tested the office download from the home page. It does show premium apps and downloads the Office installer. However, the online version of the apps is not present. - Tech researched further. When changing license types not all of the associated apps/products are selected. Checked the apps for Brian's account. Office online is turned off. Exchange online is turned off. Sharepoint online (needed for outlook online) is turned off. Turned all of these on and saved. Message popped up that stated the mailbox is being	71.25

Thank you for your business. Please write invoice number(s) on check to ensure proper credit.

Sales Tax (8.375%)

We accept these credit cards:

For after-hours emergency service, please call and press option 1 to leave a voicemail for an on-call technician.

Total

Payments/Credits

Due Padgett ROA - 135



EXHIBIT 9

Grievance File No. OBC19-1111/Request for Information

October 21, 2020 at 4:21 PM

From Louise Watson

To "brian.padgett@icloud.com"

📎 2020.10.21 LOI obc19-1111.pdf 146.79 KB


Mr. Padgett:

Please find attached correspondence requesting additional information from you. Your response is due no later than November 6, 2020.

Also, State Bar records show that your license to practice law is currently administratively and CLE suspended. If you have any questions regarding these suspensions, contact Membership Services at 702-382-2200 (fee/admin), or the CLE Board regarding at 775-329-4443 (CLE).

Sincerely,

Louise Watson
Sr. InvestigatorOffice of Bar Counsel
Main: 702-382-2200
Direct: 702-317-1453
Fax: 702-382-8747
www.nvbar.org



The Office of Bar Counsel (OBC) is committed to fighting the outbreak of coronavirus (COVID-19). All OBC staff will work remotely for the immediate future. We will not receive physical mail on a regular basis. This may delay or adversely affect your matter with the OBC. We ask that you communicate through email to louisew@nvbar.org. Thank you for your patience and cooperation during this difficult time.

Notice of Confidentiality: The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking any action in reliance upon, this information by anyone other than the intended recipient is not authorized.

Case No: OBC19-1111



FILED

NOV 17 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474,

Respondent.

**NOTICE OF INTENT
TO ENTER DEFAULT**

TO: BRIAN C. PADGETT, Esq.
The Law Offices of Brian C. Padgett
1672 Liege Drive
Henderson, NV 89012

PLEASE TAKE NOTICE THAT unless the State Bar receives a responsive pleading in the above-captioned matter by **December 10, 2020**, it will proceed on a default basis and **the charges against you shall be deemed admitted**. Supreme Court Rule 105 (2) states in relevant part:

A copy of the complaint shall be served on the attorney and it shall direct that a verified response or answer be served on bar counsel within 20 days of service . . . In the event the attorney fails to plead, **the charges shall be deemed admitted**; provided, however, that an attorney who fails to respond within the time provided may thereafter obtain permission of the appropriate disciplinary board chair to do so, if failure to file is attributable

1 to mistake, inadvertence, surprise, or excusable neglect. (Emphasis
2 added.)

3 Additional copies of the First Amended Complaint previously served upon you
4 accompanies this Notice.

5 DATED this 17th day of November, 2020.

6 STATE BAR OF NEVADA
7 DANIEL M. HOOGE, Bar Counsel

8 /s/ Gerard Gosioco
9 By: /s/ Gerard Gosioco (Nov 17, 2020 10:28 PST)
10 Gerard Gosioco, Assistant Bar Counsel
11 Nevada Bar No. 14371
12 3100 W. Charleston Blvd., Ste. 100
13 Las Vegas, NV 89102
14 (702) 382-2200
15
16
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Padgett. NIED_111720

Final Audit Report

2020-11-17

Created:	2020-11-17
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdmmxHZcrb7Yz4gUVVdMPxV5A0Mg_zayZ

"Padgett. NIED_111720" History



Document created by Laura Peters (laurap@nvbar.org)

2020-11-17 - 6:25:14 PM GMT- IP address: 71.94.199.108



Document emailed to /s/ Gerard Gosioco (gerardg@nvbar.org) for signature

2020-11-17 - 6:25:29 PM GMT



Email viewed by /s/ Gerard Gosioco (gerardg@nvbar.org)

2020-11-17 - 6:28:00 PM GMT- IP address: 68.104.81.227



Document e-signed by /s/ Gerard Gosioco (gerardg@nvbar.org)

Signature Date: 2020-11-17 - 6:28:21 PM GMT - Time Source: server- IP address: 68.104.81.227



Agreement completed.

2020-11-17 - 6:28:21 PM GMT

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that true and correct copies of the foregoing **Notice of Intent to Enter Default** along with a copy of the First Amended Complaint filed October 27, 2020, was placed in the US mail in Reno, Nevada, postage pre-paid for certified and regular mail, addressed to:

Brian C. Padgett, Esq.
The Law Offices of Brian C. Padgett
1672 Liege Drive
Henderson, NV 89012

Additionally, the document was served electronically upon brian.padgett@icloud.com and

gerardg@nvbar.org.

Dated this 17th day of November 2020.

Laura Peters

Laura Peters, an employee of
the State Bar of Nevada



FILED

NOV 18 2020

STATE BAR OF NEVADA
BY [Signature]
OFFICE OF BAR COUNSEL

LAW OFFICES OF BRIAN C. PADGETT
BRIAN C. PADGETT, ESQ.
Nevada Bar No. 7474
1672 Liege Drive
Henderson, Nevada 89012
Telephone: (702) 497-3204
Facsimile: (702) 368-0123
Email: brian.padgett@icloud.com

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA

Complainant,

vs.

Case No. OBC19-1111

BRIAN C. PADGETT, ESQ.
Nevada Bar No. 7474

Respondent,

SUPPLEMENT TO

MOTION TO VACATE FILINGS, ORDERS AND DECISIONS - INCLUDING THE
AMENDED COMPLAINT; MOTION TO DISMISS AMENDED COMPLAINT

RESPONDENT BRIAN C. PADGETT, ESQ. hereby submits this SUPPLEMENT
TO MOTION TO VACATE DECISIONS OR ORDERS FILED AFTER FIRST
COMPLAINT INCLUDING THE AMENDED COMPLAINT; MOTION TO DISMISS
AMENDED COMPLAINT. The Supplement consists of the signed Declaration of

1
2 John M. Elliott of Elliott Investigative Services, Inc. and it is attached hereto as
3 "Exhibit A".
4

5 Dated: November 18, 2020.



BRIAN C. PADGETT, ESQ.
Nevada State Bar No. 7474
1672 Liege Drive
Henderson, Nevada 89012

EXHIBIT A

1
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DECLARATION OF JOHN M. ELLIOTT

STATE OF CALIFORNIA)
) ss:
COUNTY OF VENTURA

I, JOHN M. ELLIOTT, being first duly sworn, do hereby swear under penalty of perjury
to the following:

1. I am a resident of the State of California.
2. I am the President and CEO of Elliott Investigative Services, Inc.
3. I am a retired FBI Special Agent with more than 25 years of service.
4. I am also a Certified Fraud Examiner.
5. My firm was hired by Mr. Padgett in February 2020 to investigate an alleged fraudulent corporate takeover of Mr. Padgett's marijuana company, CWNevada, LLC.
6. Thereafter, I flew to Las Vegas, Nevada and I met with Mr. Padgett at his home office to begin my investigation.
7. I found that Mr. Padgett was working primarily out of his home office and from flash drives rather than access his server as it had been breached and many of his corporate documents and emails had been erased from the server.
8. During my stay in Las Vegas, Nevada, I worked out of Mr. Padgett's home office due to my concerns that the integrity of his downtown law office security was compromised.
9. Based on interviews and evidence I uncovered, I became concerned about the safety of Mr. Padgett and his staff and I suggested that they continue to work out of his home office - and avoid his downtown law office - until the case was concluded.

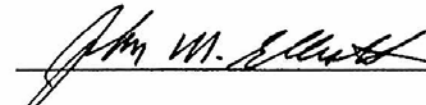
1
2 10. Based upon evidence I uncovered, I have reason to believe that some of the same
3 individuals involved in the fraudulent takeover of Mr. Padgett's marijuana company
4 are also involved in promulgating Bar Complaints against him – including attorney
5 Amy Sugden and Complainant Ian Ritchie.

6 11. As the investigation remained ongoing I advised Mr. Padgett to ask for a stay of
7 answering the Bar Complaints against him rather than divulge any material information
8 found during my investigation.

9 12. I have reason to believe that charges against Mr. Padgett, who had no past Complaints
10 filed against him by the State Bar - nor civil charges – were manufactured against him
11 in an effort to take his marijuana licenses from him as majority owner of CWNevada,
12 LLC.
13

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing statements are true and correct to the best of my knowledge.
16

17 Executed this 18th day of November, 2020.

18
19 
20 _____
21 JOHN M. ELLIOTT
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November, 2020, I served the foregoing

SUPPLEMENT TO

**MOTION TO VACATE DECISIONS AND ORDERS FILED AFTER FIRST
COMPLAINT INCLUDING THE AMENDED COMPLAINT; MOTION TO DISMISS
AMENDED COMPLAINT**

by emailing a true and correct copy thereof to the State Bar of Nevada and addressed to the
attention of Associate Bar Counsel and Louise Watson, CP for the Disciplinary Chairman.



Employee of the Law Offices of BRIAN C. PADGETT



FILED

DEC 02 2020

STATE BAR OF NEVADA
BY *[Signature]*
OFFICE OF BAR COUNSEL

DANIEL M. HOOGE
Bar Counsel
Nevada Bar No. 10620
GERARD GOSIOCO
Assistant Bar Counsel
Nevada Bar No. 14371
3100 W. Charleston Blvd., Ste. 100
Las Vegas, Nevada 89102
(702) 382-2200

Attorneys for the State Bar of Nevada

STATE BAR OF NEVADA
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

-VS-

BRIAN C. PADGETT, ESQ.,
Nevada Bar No. 7474

Respondent.

CASE NO: OBC19-1111

**STATE BAR OF NEVADA'S OPPOSITION TO RESPONDENT'S MOTION TO VACATE
FILINGS, ORDERS AND DECISIONS - INCLUDING THE AMENDED COMPLAINT;
MOTION TO DISMISS AMENDED COMPLAINT AND SUPPLEMENT**

COMES NOW, the State Bar of Nevada (hereinafter "State Bar"), by DANIEL M. HOOGE, Bar Counsel, through GERARD GOSIOCO, Assistant Bar Counsel, and hereby submits the attached Points and Authorities in Opposition to Respondent's Motion to Vacate Filings, Orders and Decisions - Including the Amended Complaint; Motion to Dismiss Amended Complaint and Supplement.

This Opposition is based upon all papers and pleadings on file herein, the attached Points and Authorities in support hereof, and oral argument, if deemed necessary by the Panel Chair in this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

PROCEDURAL HISTORY

On or about May 13, 2020, the State Bar filed its Complaint against Respondent with the following Nevada Rules of Professional Conduct (“RPC”) violations: COUNT 1 – Rule 1.15 (Safekeeping Property); COUNT 2 – Rule 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers); and COUNT 3 – Rule 8.1 (Bar Admission and Disciplinary Matters). Pursuant to Nevada Supreme Court Rule (“SCR”) 79, the State Bar sent a copy of the Complaint via first class and certified mail to Respondent’s listed address at 611 South 6th Street, Las Vegas, NV 89101. On or about June 21, 2020, both of those mailings were returned to the State Bar’s Reno office.

On or about June 9, 2020, a Notice of Intent to Proceed on a Default Basis was filed. On or about July 13, 2020, an Entry of Default was filed. The State Bar sent a copy of the Notice to Respondent’s SCR 79 address, as well as Respondent’s alternate address at 11274 Gammila Drive, Las Vegas, NV 89141, via first class and certified mail. The Notice directed Respondent to file a responsive pleading to the State Bar’s Complaint by June 29, 2020.

On or about June 21, 2020, copies of the Notice sent to Respondent’s SCR 79 address were returned to the State Bar’s Reno office marked “Return to Sender.” On or about July 6, 2020, copies of the Notice sent to Respondent’s alternate address were also returned to the State Bar’s Reno office marked “Return to Sender, Unable to Forward.”

On or about July 10, 2020, the State Bar filed a Declaration of Service According to SCR 109(1) in Support of Entry of Default (“Declaration”), which set forth the State Bar’s efforts to serve Respondent. A copy of the Declaration was also emailed to Respondent’s email address of brian@briancpadgett.com.

On or about July 13, 2020, the Hearing Chair signed, and the State Bar filed, an Entry of Default against Respondent.

Pursuant to Rule 17 of the Disciplinary Rules of Procedure (“DRP”), an initial conference took place on July 21, 2020, at 10:00am Pacific Standard Time. The Hearing Chair and ABC Gosioco were present on the call. Respondent, though formally noticed, was not present on the call. Similarly, Respondent was not present for the DRP Rule 23 pre-hearing conference held on October 12, 2020, at 10:00am Pacific Standard Time.

On or about October 15, 2020, a Formal Hearing for the instant matter was set to commence at 9:00am Pacific Standard Time. On or about October 15, 2020, at approximately 8:11am Pacific Standard Time, Respondent emailed Assistant Bar Counsel Gerard Gosioco (hereinafter “ABC Gosioco”) requesting that the Formal Hearing be continued. Ultimately, the Formal Hearing was continued. Respondent’s email was the first correspondence he had with the State Bar and/or ABC Gosioco since on or about February 26, 2020, which pertained to Respondent’s other cases, OBC19-0604 and OBC19-0798.

On or about October 22, 2020, the State Bar filed its Motion for Leave to File Amended Complaint. The Amended Complaint charged Respondent with the following RPC violations: COUNT 1 – Rule 1.15 (Safekeeping Property); COUNT 2 – Rule 5.1 (Responsibilities of Partners, Managers, and Supervisory Lawyers); COUNT 3 – Rule 8.1 (Bar Admission and Disciplinary Matters); COUNT 4 – Rule 8.1 (Bar Admission and Disciplinary Matters); COUNT 5 – Rule 8.4 (Misconduct); and COUNT 6 – Rule 8.4 (Misconduct). On or about October 27, 2020, the State Bar’s motion was granted. Accordingly, the Amended Complaint was filed that same day, and pursuant to DRP Rule 14, Respondent’s Answer deadline was on or about November 16, 2020.

On or about November 16, 2020, Respondent filed a Motion to Vacate Filings, Orders and Decisions - Including the Amended Complaint; Motion to Dismiss Amended Complaint, and a Supplement on or about November 18, 2020 (collectively referred to as “Motion”). The State Bar responds as follows.

ARGUMENT

In his motion, Respondent alleges that his right to due process has been infringed upon in the instant disciplinary proceedings. Although Respondent correctly states that Nevada courts have a history of protecting due process rights, Respondent's argument is nonetheless misguided. *See In re Schaeffer*, 25 P.3d 191, 204, *mod.* 31 P.2d 365 (Nev. 2000) (citing *State Bar of Nevada v. Claiborne*, 104 Nev. 115, 756 P.2d 464 (1988) (noting that due process requirements must be met in bar proceedings)).

In the context of administrative pleadings, the Nevada Supreme Court held that due process requirements of notice are satisfied where the parties are sufficiently apprised of the nature of the proceedings so that there is no unfair surprise and that the opportunity to prepare a defense is what defines due process. *See Dutchess Bus. Servs. v. Nev. State Bd. of Pharm.*, 124 Nev. 701, 712, 191 P.3d 1159, 1167 (2008). Here, Respondent's argument fails as he was sufficiently apprised of the nature of the proceedings so that there is no unfair surprise.

The State Bar has attempted to ensure that Respondent was apprised of the nature of these proceedings through various means. In the instant matter, the State Bar has sent pleadings via certified and/or first class mail to three different addresses: (1) 611 South 6th Street, Las Vegas, NV 89101; (2) 11274 Gammila Drive, Las Vegas, NV 89141; and (3) 1672 Liege Drive, Henderson, NV 89102. A copy of the Complaint was sent to the 6th Street address. *See* Exhibit 1. That copy was returned to the State Bar's office. *Id.* A copy of the Notice of Intent to Proceed on a Default Basis was sent to both the 6th Street address as well as the Gammila Drive address. *See* Exhibit 2. Similarly, both of those copies were sent back to the State Bar's office. *Id.* Lastly, copies of the Amended Complaint were sent to the 6th Street, the Gammila Drive, and the Liege Drive addresses. *See* Exhibit 3. All three copies – including the copy sent to the Liege Drive address – were returned to the State Bar's office. *Id.*

The State Bar, through Nationwide Legal, also attempted to personally serve Respondent with pleadings filed in the instant matter at the Liege Drive address on the following dates: (1) September 29,

2020¹; (2) October 1, 2020; and (3) October 3, 2020. *See* Exhibit 4. It is worth noting that despite Respondent's complaints about lack of notice, Respondent was aware of when the formal hearing was set to commence based on his email to ABC Gosioco. Respondent's due process rights have not been violated as there was no unfair surprise; Respondent was sufficiently apprised of the nature of the proceedings. Therefore, Respondent's argument fails.

Even assuming an unfair surprise existed, Respondent's argument still fails as has been provided an ample amount of time to sufficiently prepare a defense to the disciplinary violations he has been charged with. *See Dutchess*, 124 Nev. at 712, 191 P.3d at 1167. The formal hearing was scheduled for October 15, 2020. After having no correspondence with Respondent since on or about February 26, 2020, Respondent sent an email less than one hour prior to the hearing's commencement to request a continuance. In response to Respondent's request, the Panel Chair granted a continuance of the formal hearing to "provide Respondent with every opportunity to defend himself." *See* Exhibit 5.

The State Bar was well within its right to file an amended complaint in the instant matter. *See generally, In re Sewell*, 1998 Nev. LEXIS 56 (1998) (demonstrating that the practice of filing amended complaints in disciplinary proceedings is accepted). The Amended Complaint which contained three additional charges was filed on or about October 27, 2020. Once a complaint is filed, Respondent has twenty (20) calendar days to file a verified response or answer. DRP 14. As such, Respondent's deadline to respond was on or before November 16, 2020. Even though Respondent had the opportunity to prepare a defense and file a response to the Amended Complaint or a dispositive motion pursuant to DRP 15, Respondent filed the instant motion instead.

Respondent had an ample amount of time to respond to the charges against him. Respondent had twenty days from the date the Amended Complaint was filed to respond to the charges contained therein.

¹ The process server, Sean Keseday, noted that although no one answered the door, he stated that could see movement inside the residence and that there was a white BMW in the driveway.

Moreover, Respondent had an additional twelve (12) days to respond to the first three (3) charges in the Amended Complaint as no changes were made to those counts from the original Complaint. The evidence suggests that Respondent is merely attempting to stall even after being given time to respond. Respondent's due process rights were not violated as he had more than enough opportunity to prepare a defense. Therefore, Respondent's argument fails.

CONCLUSION

Based upon the foregoing, the State Bar of Nevada respectfully requests that Respondent's Motion to Vacate Filings, Orders and Decisions - Including the Amended Complaint; Motion to Dismiss Amended Complaint and Supplement be DENIED.

DATED this 2nd day of December, 2020.

**STATE BAR OF NEVADA
DANIEL M. HOOGE, BAR COUNSEL**

/s/ Gerard Gosioco

Gerard Gosioco, Assistant Bar Counsel
Nevada Bar No. 14371
3100 West Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102
(702) 382-2200

CERTIFICATE OF SERVICE

The undersigned hereby certifies a true and correct copy of the foregoing **OPPOSITION TO RESPONDENT’S MOTION TO VACATE FILINGS, ORDERS AND DECISIONS – INCLUDING THE AMENDED COMPLAINT; MOTION TO DISMISS AMENDED COMPLAINT AND SUPPLEMENT** was served via email to:

1. Rich Williamson, Esq. (Board Chair): rich@nvlawyers.com
2. Brian C. Padgett, Esq. (Respondent): brian.padgett@icloud.com
3. Gerard Gosioco, Esq. (Assistant Bar Counsel): gerardg@nvbar.org

Dated this 2nd day of December, 2020.

Laura Peters

Laura Peters, an employee
of the State Bar of Nevada

EXHIBIT 1

Exhibit 1

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EXHIBIT 2

Exhibit 2



FILED

JUL 10 2020

STATE BAR OF NEVADA
BY [Signature]

OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
BRIAN C. PADGETT, ESQ.,)
7474)
Respondent.)

DECLARATION OF SERVICE
ACCORDING TO SCR 109(1)
IN SUPPORT OF ENTRY OF DEFAULT

LAURA PETERS, under penalty of perjury, being first duly sworn, deposes and says
as follows:

That Declarant is employed as a Paralegal for the State Bar of Nevada Office of Bar
Counsel ("OBC") and in such capacity is a custodian of records for the OBC; Declarant
certifies that the attached documents are true and accurate copies of records generated
by and maintained by the OBC in the ordinary course of business.

That Declarant certifies the following is a summary of the OBC efforts to locate and
serve attorney Brian C. Padgett, Esq. ("Respondent"):

1. Respondent is member of the State Bar of Nevada (Bar No. 7474), having
been licensed in the State of Nevada since December 28, 2000.

2. Nevada Supreme Court Rule ("SCR") 79(1) requires every member of the
State Bar of Nevada to provide the State Bar with a permanent mailing address, permanent

telephone number, and a current email address for purposes of State Bar communication with the attorney.

A. Service of the Complaint

3. On May 13, 2020, the State Bar filed a Complaint against Respondent in the above-captioned matter.

4. On May 13, 2020, Respondent had a SCR 79 address of record with the State Bar as 611 South 6th Street, Las Vegas, NV 89101.

5. Pursuant to SCR 109(1) service of the Complaint was made by mailing a copy to Respondent's SCR 79 address (611 South 6th Street, Las Vegas, NV 89101) via first class & certified U.S. mail on that May 13, 2020. See Exhibit 1.

6. Both the certified and regular mailings of the Complaint were returned to the Reno office of the State Bar on or about June 21, 2020. See Exhibit 2.

7. No response to the Complaint has been received from Respondent. Response was due on or before June 5, 2020.

B. Service of the Notice of Intent to Enter Default

8. On June 9, 2020, the State Bar filed a Notice of Intent to Enter Default ("NIED") against Respondent for his failure to respond to the Complaint.

9. On June 9, 2020, pursuant to SCR 109(1) service of the NIED was made by mailing a copy, along with another copy of the Complaint, to both Respondent's SCR 79 address and his alternate address (11274 Gammila Drive Las Vegas, NV 89141) via first class & certified mail. See Exhibit 3.

10. Both the certified and regular mailings of the NIED sent to Respondent's SCR 79 address were returned to the Reno office of the State Bar on or about June 23, 2020, marked "Return to Sender". See Exhibit 4.

11. The certified and regular mailings to Respondent's alternate address were returned to the Reno office of the State Bar on or about July 6, 2020, marked "Return to Sender, Unable to Forward". See Exhibit 5.

12. No response to the NIED has been received from Respondent. Response was due on or before June 29, 2020.

DATED this 10th day of July, 2020.

Laura Peters

Laura Peters, Paralegal
State Bar of Nevada, Office of Bar Counsel

EXHIBITS TO DUE DILIGENCE DECLARATION

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1. That Declarant is employed as a paralegal for the State Bar of Nevada. That in such capacity, Declarant is Custodian of Records for the Discipline Department of the State Bar of Nevada.

3. That pursuant to Supreme Court Rule 109, the Complaint and First Designation of Hearing Panel Members were served on the following by placing a copy in an envelope which was then sealed and postage fully prepaid for first class & certified mail, and deposited in the United States mail at Reno, Nevada addressed to:

C. Padgett

Laura Peters, an employee of the State Bar of Nevada

Padgett ROA - 163

SENDER: COMPLETE THIS SECTION

- ☐ Complete items 1, 2, and 3.
- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☒ X☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

address different from item 1? ☐ Yes
or delivery address below: ☐ No

Brian C. Padgett, Esq.
The Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, Nevada 89101



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2. Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

3. Service Type

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Brian C. Padgett, Esq.
The Law Offices of Brian C. Padgett
611 S. 6th St.
Las Vegas, Nevada 89101

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1 **CERTIFICATE OF SERVICE BY MAIL**

2 The undersigned hereby certifies that a true and correct copy of the foregoing
3 **Notice of Intent to Enter Default** along with a copy of the Complaint filed May 13,
4 2020, was placed in the US Mail, postage prepaid via first class certified and regular mail,
5 and addressed to Brian C. Padgett, Esq., 611 S. 6th St., Las Vegas, NV 89101 and
6 11274 Gammila Drive, Las Vegas, NV 89141.

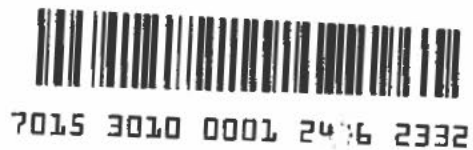
7 Dated this 9th day of June, 2020.

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10 Laura Peters, an employee of
11 the State Bar of Nevada

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Brian C. Padgett, Esq.

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<p>1. A. Addressee</p> <p>Brian C. Padgett, Esq. 611 S. 6th Street Las Vegas, NV 89101</p>		<p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7015 3010 0001 2446 2332</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery</p>		<p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
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NEVADA BAR CENTER

1401 S. St. B, Reno, NV 89521-5977

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Brian C. Padgett, Esq.

611 S. 6th Street

Las Vegas NV 89101

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NORTHERN NEVADA BAR CENTER

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www.nvbar.org

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Brian C. Padgett, Esq.
11274 Gammlia Drive
Las Vegas, NV 89141

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brian C. Padgett, Esq.
11274 Gammilla Drive
Las Vegas, NV 89141



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COMPLETE THIS SECTION ON DELIVERY

A. Signature

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☐ Agent

☐ Addressee

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3. Service Type

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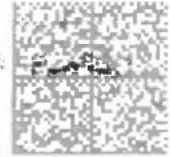
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Brian C. Padgett, Esq.
11274 Gammila Drive
Las Vegas, NV 89141

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EXHIBIT 3

Exhibit 3

STATE BAR OF NEVADA



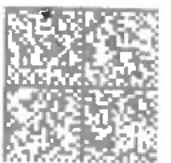
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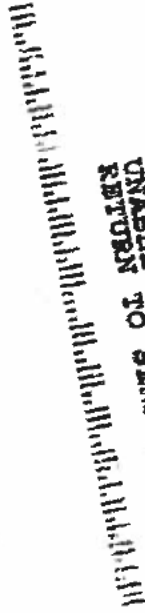
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Brian C Padgett, Esq.
Law Office of Brian C Padgett
611 S 6th Street
Las Vegas NV 89101

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Brian C Padgett, Esq.
Law Office of Brian C Padgett
611 S 6th Street
Las Vegas, NV 89101*



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2. Article Number (Transfer from service label)

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 - ☐ Registered Mail™
 - ☐ Registered Mail Restricted Delivery
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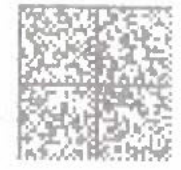
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www.nvbar.org

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Brian Padgett, Esq.
Law Offices of Brian C. Padgett
1672 Liege Drive
Henderson, NV 89012

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- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brian Padgett, Esq.
Law Offices of Brian C. Padgett
1672 Liege Drive
Henderson, NV 89012



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2. Article Number (Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

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B. Received by (Printed Name)

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9456 Double R Blvd., Ste. B, Reno, NV 89521-5977
www.nsbctr.org

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MAILED FROM ZIP CODE 89502

NIXIE
BC: 89521501393
RETURN TO SENDER
UNABLE TO FORWARD
2104M22M30-01742

Brian C. Padgett, Esq.
611 S. 6th Street
Las Vegas, NV 89101

PADG611 891015012-1N 08/18/20
891015012-1N

15/11
\$001.20
MAILED FROM ZIP CODE 89502

RECEIVED

NOV 09 2020

UP/H

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brian C Padgett, Esq.
11274 Gammila Drive
Las Vegas NV 89141



9590 9402 5871 0038 4388 09

2. Article Number (Transfer from service label)

7019 2970 0001 3885 9549

PS Form 3811, July 2015 PSN 7530-02-000-8053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt

STATE BAR

CERTIFIED MAIL



7029 2970 0001 3885 9649

NORTHERN NEVADA BAR CENTER
9456 Double R Blvd., Ste. B, Reno, NV 89521-5977
www.nnbac.org

Brian C Padgett, Esq.
11274 Gammilla Drive
Las Vegas NV 89141

FIRST-CLASS



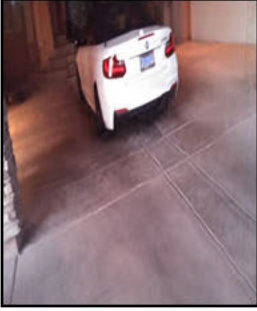
Padgett ROA - 180

NIXIE 851 FEB 1 0011/04/20
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

EC: 59521591993 210442299139-00343

EXHIBIT 4

Exhibit 4

Gerard Gosioco, Esq., OFFICE OF BAR COUNSEL 3100 W. Charleston 100 Las Vegas, NV 89102		BRIAN C. PADGETT, ESQ	
	CASE #: OBC19-111 STAT BAR OF NEVADA VS. BRIAN C. PADGETT, ESQ		030 - STANDARD PROCESS (48 to 72 HRS)
	** NOT SERVED **		COMPLETED BY Sean Keseday 10/3/2020 1:55 PM
PROOF OF DELIVERY		Reference No.: BRIAN C. PADGETT, ESQ	

I received the within process on September 25, 2020 and that after due and diligent effort I have been unable to serve Brian C Padgett, Esq. The following itemization of the dates and times of attempts details the efforts required to effect service.

DOCUMENTS: Complaint;

9/29/2020 | 6:46 PM Business1672 Liege Drive, Henderson, NV 89012
no answer, could see movement inside, 1 car in driveway

10/1/2020 | 6:11 PM Business1672 Liege Drive, Henderson, NV 89012
no answer, no cars, guard escorted to property

10/3/2020 | 1:56 PM Business1672 Liege Drive, Henderson, NV 89012
security escorted to property, no answer, no activity

COURT FILINGS | SERVICE OF PROCESS | REPROGRAPHICS
PDF/FAX FILINGS | MESSENGER SERVICES

NOT A PROOF OF SERVICE | SUMMARY OF SERVICE | NOT A PROOF OF SERVICE

Did you know you can check status, place orders, and look up costs online?
 Visit our secure website at <https://express.nationwideasap.com>

PROOF OF DELIVERY

EXHIBIT 5

Exhibit 5