Nebraska Supreme Court Online Library
www.nebraska.gov/apps-courts-epub/
11/03/2026 01:03 PM CST

been raised before it. We find no merit to the county attorney's assignment of error.

(d) Failure to Show Cause

The county attorney also argues, generally, Schropp and the district court have not shown cause that the court's discovery orders should not be set aside. But this argument is not encompassed by the county attorney's assignments of error, and errors argued but not assigned will not be considered on appeal.[51]

V. CONCLUSION

For these reasons, we conclude that the county attorney's appeal was not taken from a final, appealable order, and we affirm the decision of the Court of Appeals dismissing her appeal in case No. S-10-361. We also conclude that the county attorney has failed to meet her burden of showing clearly and convincingly that she is entitled to have the district court's orders vacated, and we deny her request for a peremptory writ of mandamus in case No. S-10-831.

JUDGMENT IN NO. S-10-361 AFFIRMED.
PEREMPTORY WRIT IN NO. S-10-831 DENIED.

WRIGHT, J., not participating.

---

[51] See *Shepherd v. Chambers, ante* p. 57, 794 N.W.2d 678 (2011).

STATE OF NEBRASKA EX REL. COUNSEL FOR DISCIPLINE OF THE NEBRASKA SUPREME COURT, RELATOR, V. PETER T. THEW, RESPONDENT.

794 N.W.2d 412

Filed March 4, 2011. Nos. S-09-567, S-09-820, S-10-380.

1. **Disciplinary Proceedings.** A proceeding to discipline an attorney is a trial de novo on the record.
2. ____. The basic issues in a disciplinary proceeding against a lawyer are whether discipline should be imposed and, if so, the type of discipline under the circumstances.
3. ____. With respect to the imposition of attorney discipline in an individual case, the Nebraska Supreme Court evaluates each attorney discipline case in light of its particular facts and circumstances.

4. ____. To determine whether and to what extent discipline should be imposed in a lawyer discipline proceeding, the Nebraska Supreme Court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the offender generally, and (6) the offender's present or future fitness to continue in the practice of law.
5. ____. The determination of an appropriate penalty to be imposed on an attorney in a disciplinary proceeding requires the consideration of any aggravating or mitigating factors.
6. ____. Cumulative acts of attorney misconduct are distinguishable from isolated incidents, therefore justifying more serious sanctions.

Original actions. Judgment of disbarment.

Kent L. Frobish, Assistant Counsel for Discipline, for relator.

Robert Wm. Chapin, Jr., of Chapin Law Office, for respondent in Nos. S-09-567 and S-09-820.

Peter T. Thew, pro se.

CONNOLLY, GERRARD, STEPHAN, and MCCORMACK, JJ., and IRWIN, Judge.

PER CURIAM.

I. NATURE OF CASE

This case involves attorney disciplinary charges brought against Peter T. Thew in three separate cases. Amended formal charges were filed against Thew in case No. S-09-567 on June 16, 2009, in case No. S-09-820 on December 23, 2009, and in case No. S-10-380 on May 18, 2010. We consolidated these three cases. Because Thew has admitted to all of the charges, the only issue now addressed by this court is the appropriate sanction.

II. BACKGROUND

Thew graduated from the University of Nebraska College of Law in May 2002. Thew worked for a University of Nebraska office of research until June 2004, when he went into solo private practice. Beyond one semester of civil clinic during law school, Thew had no experience working in a law office. He was a solo practitioner until September 16, 2009, when he was temporarily suspended.

1. Cases Nos. S-09-567 and S-09-820

Amended formal charges were filed against Thew in case No. S-09-567 on June 16, 2009, and Thew responded to the charges on August 13. The application for temporary suspension was filed on August 18 and was assigned case No. S-09-820. Thew filed an objection to the temporary suspension and requested a hearing. On August 27, this court consolidated the two cases for review and appointed a referee. On September 16, this court entered an order temporarily suspending Thew from the practice of law. The hearing on the amended formal charges in the consolidated cases was held on January 12, 2010.

Thew and the relator entered into a stipulation where Thew admitted all the charges against him. During the hearing, Thew was asked why he made the decisions that he did, and he responded:

> I mean, I don't really know for sure why I did it, but the best I can explain is the fact that upon all these events happening, I've realized that I have some issues as far as some health issues with depression and that I've had these issues for some time and just haven't dealt with them and have pushed them aside and put on a good facade as far as passing off that, you know, things were fine.

Thew was asked, "And so after neglecting the cases and procrastinating on the cases, your — when confronted by your clients, you just told them untrue statements to cover yourself; is that right?" Thew responded, "I wouldn't — I wouldn't — putting it in those terms, no. . . . I think at times I did make statements that were untrue, but I don't think that, you know, when I fell behind I would just tell them things that weren't true."

Although Thew claimed that his depression ought to be considered as a mitigating factor, the referee found that Thew had not established that his depression was a factor in his misconduct, or that treatment would substantially reduce the risk of further misconduct. Even though Thew stipulated to the fact that he knowingly made false statements to his clients, he continued to claim that he had not lied. The referee found that his clients had not suffered lasting harm but did note that Thew's pattern of dishonesty was troubling. Nevertheless, the

referee recommended a suspension of 120 days, retroactive to the date of Thew's temporary suspension, as well as 2 years of probation. The relator objected, arguing that the sanction was too lenient.

The following recitation of facts is taken from the referee's report in cases Nos. S-09-567 and S-09-820.

(a) Lorin Wiederstein

Thew represented Lorin Wiederstein in a divorce case and was paid an advance fee of $2,500. The divorce trial was held on August 7, 2007, and a decree was entered. Thew filed a notice of appeal on Wiederstein's behalf on October 5. At no point in time did Thew provide Wiederstein with a billing statement, nor did he request further payment. Wiederstein retained new counsel, who requested the case file several times. Thew did not respond to the requests until March 6, 2008, when he stated that he would not release the file until his outstanding bill for legal fees was paid. However, Thew still did not provide a billing statement.

Wiederstein filed a grievance against Thew with the Counsel for Discipline on May 22, 2008. Notice of the grievance was sent to Thew the same day, with directions to file a written response. Thew admitted that he received the notice, but he did not respond. A second notice was sent June 24, and once again, Thew failed to respond. On July 15, the Counsel for Discipline upgraded Wiederstein's grievance to a formal grievance and directed Thew to file an appropriate written response within 15 working days. Notice was sent to Thew by certified mail, and his secretary signed for the letter on July 16.

Thew called the Counsel for Discipline on July 17, 2008, and stated that he had sent his response the previous week. Thew's response to the Counsel for Discipline was dated July 11, 2008, but there was not a postmark from the U.S. Postal Service. The letter was instead metered by a private postage meter which did not record a date. In the letter, Thew did not address his failure to respond to requests for the case file. Instead, Thew claimed to have sent billing statements on October 16 and November 27, 2007, showing that Wiederstein owed additional fees. Thew enclosed the billing statements that

he claimed to have sent to Wiederstein, claiming a balance owed of $4,437.16. Wiederstein claimed that he never received a billing statement.

The Counsel for Discipline sent a letter to Thew's attorney on December 30, 2008, requesting a complete accounting for Thew's trust account from September 14, 2006, to the present. Thew failed to provide the requested information. The referee found by clear and convincing evidence that Thew had violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: Neb. Ct. R. of Prof. Cond. §§ 3-501.4 (communications), 3-501.5 (fees), 3-501.15 (safekeeping property), and 3-508.4 (misconduct).

(b) Luana Gray Conservatorship

Thew was appointed successor guardian and conservator for Luana Gray on December 20, 2005. Between Thew's appointment and his removal on April 29, 2008, the county court issued several orders to show cause why Thew should not be removed as guardian and conservator due to his failure to file appropriate documents. During this time, Thew also failed to pay a medical bill and failed to reimburse Medicare for its subrogation claim. Although Thew claimed that he sent a check in payment to Medicare, the check was never cashed. Thew did not make additional inquiry as to why the check had not been cashed.

Following the issuance of a second order to show cause after Thew failed to appear at a hearing on March 11, 2008, Thew again failed to file the required documents, and he failed to appear in court. The county court removed him as guardian and conservator. Although his authority to act was revoked on April 29, Thew did not file an accounting with the court to determine who should receive the funds held in Gray's guardianship account. Thew finally closed Gray's guardianship account on September 2, and a successor guardian and conservator was appointed.

The referee found by clear and convincing evidence that Thew violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.15 (safekeeping property) and 3-508.4 (misconduct),

and Neb. Ct. R. of Prof. Cond. §§ 3-501.1 (competence) and 3-501.3 (diligence).

(c) Marilyn Hawley Conservatorship

Thew was appointed temporary guardian and conservator for Marilyn Hawley after two of her children requested a guardian and conservator. The appointment was made permanent on January 31, 2006. Hawley maintained a checking account with Wells Fargo Bank, and monthly bank statements were mailed to Hawley's former residence. Hawley's Social Security benefits were directly deposited into her checking account.

By April 2006, Thew had made arrangements for Hawley's Social Security benefits to be sent directly to the assisted living center where she resided. However, Thew did not notify Wells Fargo Bank to change the mailing address of the bank statements, nor did he notify the bank of his position as guardian and conservator until July 2006. On April 4, 2006, the county court authorized Thew to pay $1,066.25 for attorney fees related to the guardian and conservatorship proceedings. Although there was more than enough money in Hawley's bank account, Thew did not pay the claim until September 14.

On May 9, 2006, the court issued an order to show cause to Thew because he had not timely filed an inventory of Hawley's assets. Thew filed an inventory on June 6, but he failed to list the account number, and he inaccurately stated the account balance, indicating there was $31.09 in the account, when there was actually $3,202.37. Thew also failed to timely pay Hawley's bills for the assisted living center. On June 13, the administrator of the center sent a letter to Thew demanding payment of Hawley's bill. Thew did not pay the bill, and Hawley's daughter sent a letter to the court stating that Thew had been neglecting to pay Hawley's bills. The court issued an order to show cause on July 17 directing Thew to appear on August 8. Thew requested a continuance on July 26, which the court granted.

Thew paid the bill at the assisted living center on July 27, 2006. After that payment was made, Hawley's daughter sent a letter to the court stating that she was now satisfied. On

August 22, the court made a journal entry stating that Thew was to continue as guardian.

Thew received a check from the buyer of Hawley's car in November 2006, but he did not deposit the check until February 2007. Thew did not reimburse Hawley's son for expenses he incurred selling the car, even though he promised to do so. Hawley's son asked Thew to set aside money in a prepaid funeral account, but Thew never opened such an account. Hawley passed away on February 1, 2007, and a statement for the funeral expenses was faxed to Thew the next day. Although there were sufficient funds in Hawley's account, Thew did not pay the funeral expenses, he failed to notify the court of Hawley's death, and he failed to timely file an annual accounting.

The court issued an order to show cause directing Thew to file the required reports regarding Hawley and scheduled a hearing, which was continued three times. Thew filed an annual account and statement of assets on September 28, 2007. On April 2, 2008, the court issued an order to show cause directing Thew to appear in court on May 6, and Thew failed to appear. On May 12, the court issued a second notice of the order to show cause and set a hearing date for June 17. The second notice was sent by certified mail to Thew's business address, but Thew failed to claim the letter, and it was returned to the court.

The court issued a final order to show cause directing Thew to personally appear in court on July 1, 2008, to show cause why he should not be held in contempt. The final order was served on Thew by the Lancaster County sheriff's office on June 10. On July 1, the hearing was continued to August 5. On July 24, Thew filed a motion to allow him to pay Hawley's remaining funds into the court. Thew stated that he was unable to contact Hawley's heirs, but he had the addresses of all four of Hawley's adult children. Thew did not send a copy of the motion to any of her children.

On July 29, 2008, the court issued an order directing Thew to pay Hawley's funds into the court. Thew did not pay those funds into the court until December 31, after he was informed that he was under investigation regarding his neglect

of Hawley's case. The referee found by clear and convincing evidence that Thew had violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.1 (competence), 3-501.3 (diligence), 3-501.15 (safekeeping property), and 3-508.4 (misconduct), and Neb. Ct. R. of Prof. Cond. § 3-503.3 (candor toward the tribunal).

(d) Curt Olson

Curt Olson hired Thew in March 2008 to file suit to recover on a bill for architectural services in the amount of $12,115.81. Thew failed to timely file suit, despite assuring Olson that the case was proceeding in a timely manner. Thew also stated to Olson that suit had been filed, and he stated that a judgment had been entered for $12,115.81. Thew knew these statements were false at the time he made them.

Olson asked for a copy of the judgment, and Thew assured Olson that he would provide him with a copy. On or about January 26, 2009, Olson went to Thew's office to request a copy in person. Thew stated that the file was at his home. The next day, Thew gave Olson a document that Thew claimed was a copy of the order for judgment. Thew knew that suit had not been filed and that no judgment had been entered when he delivered the document.

Thew finally filed suit on Olson's behalf on January 29, 2009, and the case was eventually settled to Olson's satisfaction. The referee found by clear and convincing evidence that Thew had violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.1 (competence), 3-501.3 (diligence), 3-501.4 (communications), and 3-508.4 (misconduct).

(e) Laura Swoboda

Laura Swoboda hired Thew in March 2008 to recover on a loan she had made in the amount of $12,500 plus interest. On April 8, 2008, Thew filed a complaint, and a default judgment was entered in Swoboda's favor in the amount of $17,620.86, plus costs, on September 19. Thew advised Swoboda to wait 30

days after the judgment to attempt to collect it by garnishment or other means.

Beginning in late October 2008, Thew led Swoboda to believe that garnishment proceedings in the county court were being pursued in an attempt to recover on the judgment. In fact, Thew had not begun garnishment proceedings. Swoboda contacted the clerk of the Lancaster County Court on March 17, 2009, and learned that no garnishment proceedings had been commenced. Swoboda called Thew, who falsely stated that he had filed the garnishment proceedings in district court. Thew knew the statement was false when he made it. Thew filed garnishment proceedings on March 18. Swoboda terminated Thew as her lawyer and filed a grievance against him with the Counsel for Discipline on March 20.

The referee found by clear and convincing evidence that Thew violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.1 (competence), 3-501.3 (diligence), 3-501.4 (communications), and 3-508.4 (misconduct).

(f) Allan Brock

Allan Brock and his adult son were injured in a motor vehicle collision on August 19, 2005, in Johnson County, Nebraska. In June 2006, Brock retained Thew to represent him in his personal injury claim against the other driver and his own insurance carrier. Thew also agreed to represent Brock's son. Thew agreed to a contingency fee agreement, but he did not present a written contingency fee agreement as required by § 3-501.5(c).

On September 21, 2006, Thew sent Brock a draft complaint he had prepared, which Brock approved. Thew did not file the complaint until May 16, 2007. In the spring of 2008, Thew told Brock and his wife that a trial was scheduled for May 28, 2008. In anticipation of the trial, Brock, his wife, and his son met with Thew. A few days before the scheduled trial date, Thew called Brock's wife and told her that the trial was continued, and had been rescheduled for December 10. Thew knew no trial had been scheduled.

Thew failed to perfect service on the defendants in the case, so on November 26, 2008, the case was dismissed by the county court. Thew failed to inform Brock that the case had been dismissed. Instead, he stated that the trial would be continued to January 7, 2009. Thew knew this statement was false when he made it. On January 6, Thew called Brock's wife and informed her that the case was dismissed because the parties had not been properly notified. In February 2009, Thew told Brock that he had refiled the case, but that statement was false, and Thew knew as much when he made it. Thew did not refile the case until June 16.

In April, May, and June 2009, Brock, his wife, and his son attempted to contact Thew about the status of the case, but Thew failed to return their calls. The referee found by clear and convincing evidence that Thew violated his oath of office as an attorney and the following provisions of the Nebraska Rules of Professional Conduct: §§ 3-501.1 (competence), 3-501.3 (diligence), 3-501.4 (communications), 3-501.5 (fees), and 3-508.4 (misconduct).

2. Case No. S-10-380

While cases Nos. S-09-567 and S-09-820 were pending before this court, amended formal charges were filed against Thew on May 18, 2010, and we eventually consolidated the three cases. Thew did not respond to the charges, and the relator moved for a judgment on the pleadings. In his answer filed on January 3, 2011, Thew requested that we consider the same mitigating factors in case No. S-10-380 as we did in cases Nos. S-09-567 and S-09-820. Thew also admitted the charges against him, stated that he was not seeking reinstatement, and stated that he was not currently fit to practice law. The following recitation of facts is taken from the amended formal charges.

(a) Patrick Doyle

On May 14, 2008, Patrick Doyle hired Thew to represent him on several criminal and civil matters. Thew and Doyle executed a written fee agreement which provided that Doyle would pay Thew $185 per hour for his services, as well as $40,000 as a "'non refundable deposit.'" Thew received the

deposit, but he never provided Doyle with a periodic billing statement, nor did he respond to relator's requests for a billing statement. The record is unclear as to when or why Doyle's relationship with Thew ended.

The relator charged Thew with violating §§ 3-501.5 (fees), 3-501.15 (safekeeping property), and 3-508.4 (misconduct).

(b) Kristan Yoder

On or about February 23, 2006, Kristan Yoder hired Thew to represent him on a breach of settlement agreement. Thew filed suit on May 9, but then failed to prosecute the case. The district court issued a progression order on December 10, 2007, stating that the case would be dismissed unless cause was shown by January 10, 2008. On January 2, Thew filed a motion to set the case for trial. No trial notice was ever filed, however, and on December 3, the court issued another progression order directing that the case would be dismissed unless cause was shown by January 5, 2009. On January 5, Thew filed a motion to set the case for trial, stating that all discovery had been completed. The defendant in the case objected and served several interrogatories and requests for production of documents on Thew. Thew failed to submit responses, and on July 22, opposing counsel filed a motion to compel on the discovery requests.

During this time, Thew failed to keep Yoder apprised of the status of his case. On more than one occasion, Thew falsely claimed that the case had been set for trial, only to claim later that the trial had been continued at the request of opposing counsel. Yoder made repeated requests for a billing statement, but Thew never provided one. Yoder paid Thew $3,850, but Thew never accounted for the time spent on Yoder's case.

Thew's license to practice law was suspended on September 17, 2009, but Thew failed to notify Yoder of such, and Thew did not turn over the file so that Yoder could seek other counsel. Yoder filed a grievance on October 13, and Thew responded, admitting that he had lied when he told Yoder the case had been set for trial. The Counsel for Discipline requested that Thew produce a complete copy of the file, a complete accounting of the time he had put into the case, and a

complete accounting of all payments received. The record does not indicate that Thew ever provided the information.

The relator charged Thew with violating §§ 3-501.3 (diligence), 3-501.4 (communications), 3-501.5 (fees), and 3-508.4 (misconduct), and Neb. Ct. R. of Prof. Cond. § 3-501.16 (declining or terminating representation).

(c) Cory Althouse

Cory Althouse hired Thew in February 2006 to file an eviction notice. Thew filed suit in Lancaster County Court on February 27. A default judgment for restitution was entered on March 13, and a monetary judgment for rent and damages in the amount of $2,705 was entered on April 10. On April 25, Thew initiated garnishment proceedings to collect the judgment, and he received $1,407.02 from the garnishee's employer between May 16, 2006, and March 30, 2007. Thew failed to provide Althouse with an accounting of all funds received through the garnishment action, and he failed to remit all of the funds that Althouse was entitled to receive.

In March 2009, Althouse provided Thew with the name of the garnishee's current employer. Thew filed a praecipe and garnishment affidavit on March 18, 2009. Thew chose to serve the papers by certified mail, but he failed to follow up with the garnishment. Thew did not do any more work on the case, but he did not take steps to terminate the relationship. Thew failed to notify Althouse when his license was suspended, and he failed to turn over the case file so that Althouse could retain other counsel. Althouse filed a grievance against Thew on November 16. Notice of the grievance was mailed to Thew on November 17 by certified mail, and Thew signed the receipt on December 2. Thew was directed to file an appropriate response to the grievance within 15 working days, which he failed to do. On January 20, 2010, the Counsel for Discipline sent a followup letter directing him to file a response, but Thew failed to respond.

The relator charged Thew with violating §§ 3-501.3 (diligence), 3-501.4 (communications), 3-501.15 (safekeeping property), 3-501.16 (declining or terminating representation), and 3-508.4 (misconduct).

(d) Melissa Anderson

In 2006, Thew represented Melissa Anderson in a personal injury case after her son was bitten by a dog. Thew filed suit in Lancaster County Court, and on or about January 12, 2009, the case was settled with the defendant's insurance company. Anderson was appointed conservator for her son so that she could receive the settlement from the insurance company.

The insurance company mailed Thew a check for over $18,000, as well as a check payable to Anderson and Thew for $24,323.94. Anderson was to deposit the insurance settlement check into a certificate of deposit and file notice thereof with the county court. Thew failed to notify Anderson that he had received the settlement check, and he failed to take any other steps to confirm that the settlement proceeds were deposited into a certificate of deposit for the son's benefit. The county court issued an order to show cause to Anderson for failure to file a certificate of proof of possession of a certificate of deposit for her son's benefit. Anderson was unable to contact or locate Thew to find out why the insurance company had not delivered the settlement funds. Anderson appeared at the show cause hearing on March 16, 2010, and was informed that Thew's license had been suspended and that it was her responsibility to locate and deposit the settlement funds.

Upon investigation, Anderson learned that the check for $24,323.94, made payable to her and Thew, had been sent to Thew shortly after the settlement had been reached. The check had never been deposited, although the check for Thew's fee had been. The insurance company reissued the settlement check to Anderson.

The relator charged Thew with violating §§ 3-501.3 (diligence), 3-501.4 (communications), 3-501.15 (safekeeping property), 3-501.16 (declining or terminating representation), and 3-508.4 (misconduct).

(e) Marvel Nevels

In 2006, Marvel Nevels contacted Thew about representing her on an intellectual property case. Her initial consultation with Thew took place on January 12, 2006, at which time she paid Thew $50. Thew agreed to prepare and file all documents

necessary to secure trademark protection for Nevels' ideas, but he requested an advance payment first. Nevels gave Thew a check for $1,900 on August 11, and the check cleared Nevels' account on September 14.

Thew informed Nevels that it would take between 6 months and 2 years to complete the registration for her ideas. Nevels had not heard from Thew by August 2007, and she called his office to speak with him. Thew stated that he was still working on her case, but that he had not heard from the trademark office.

Nevels waited another year and heard nothing from Thew, so in August 2008, she made an unannounced visit to Thew's office. At that meeting, Thew stated that he still had not heard from the trademark office regarding her application for trademark protection. Thew did tell Nevels that she could begin marketing her ideas while she waited to hear from the trademark office. Nevels heard that Thew's law license had been suspended, although Thew never notified her of that fact. Since giving Thew an advance payment, Nevels did not receive any written correspondence from Thew, she was not notified by Thew of his suspension, and she had not received her file from Thew.

The relator charged Thew with violating §§ 3-501.3 (diligence), 3-501.4 (communications), 3-501.15 (safekeeping property), 3-501.16 (declining or terminating representation), and 3-508.4 (misconduct).

Given the new charges, the relator recommends disbarment.

III. ANALYSIS

As an initial matter, we note that Thew's conduct took place after September 1, 2005, and therefore is governed by the Nebraska Rules of Professional Conduct.[1]

[1,2] A proceeding to discipline an attorney is a trial de novo on the record.[2] The basic issues in a disciplinary proceeding

---

[1] *State ex rel. Counsel for Dis. v. Switzer*, 275 Neb. 881, 750 N.W.2d 681 (2008).

[2] *State ex rel. Counsel for Dis. v. Tarvin*, 279 Neb. 399, 777 N.W.2d 841 (2010).

against a lawyer are whether discipline should be imposed and, if so, the type of discipline under the circumstances.[3] Neb. Ct. R. § 3-304 provides that the following may be considered as discipline for attorney misconduct:

> (A) Misconduct shall be grounds for:
> (1) Disbarment by the Court; or
> (2) Suspension by the Court; or
> (3) Probation by the Court in lieu of or subsequent to suspension, on such terms as the Court may designate; or
> (4) Censure and reprimand by the Court; or
> (5) Temporary suspension by the Court; or
> (6) Private reprimand by the Committee on Inquiry or Disciplinary Review Board.
> (B) The Court may, in its discretion, impose one or more of the disciplinary sanctions set forth above.

[3] With respect to the imposition of attorney discipline in an individual case, we evaluate each attorney discipline case in light of its particular facts and circumstances.[4]

After the first two cases were heard, the referee had recommended a suspension of 120 days, and probation for 2 years after Thew is reinstated. However, in light of the most recent allegations, the recommendation is disbarment.

[4,5] To determine whether and to what extent discipline should be imposed in a lawyer discipline proceeding, this court considers the following factors: (1) the nature of the offense, (2) the need for deterring others, (3) the maintenance of the reputation of the bar as a whole, (4) the protection of the public, (5) the attitude of the offender generally, and (6) the offender's present or future fitness to continue in the practice of law.[5] The determination of an appropriate penalty to be imposed on an attorney in a disciplinary proceeding requires the consideration of any aggravating or mitigating factors.[6]

---

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] *State ex rel. Counsel for Dis. v. Wright*, 277 Neb. 709, 764 N.W.2d 874 (2009).

[6] Between these three cases, we find by clear and convincing evidence that Thew violated seven different disciplinary rules. Cumulative acts of attorney misconduct are distinguishable from isolated incidents, therefore justifying more serious sanctions.[7] Thew's behavior demonstrates a pattern of neglect and deceit that we find troubling.

While Thew's responses to his clients were negligent and lax, he also lied numerous times, and he also created false documents to hide the fact that he had procrastinated. Thew admits that he failed to notify his clients of his temporary suspension and that he failed to provide his clients with their files so that they could seek other counsel. Although there are letters in the record from other attorneys attesting to Thew's competence, the record reflects that Thew's problems were due in part to poor management of his private legal practice. The record also demonstrates that he did not have sufficient experience to handle some of his cases and that he did not seek assistance when he realized he did not have the necessary information or skills.

In Thew's answer to the most recent charges, he states that "he is not seeking reinstatement at this time and does not contend he is fit to practice law at this time." The Counsel for Discipline recommends that Thew be disbarred. We recently disbarred an attorney for neglecting his clients, failing to properly terminate representation, and failing to cooperate with the Counsel for Discipline.[8] Ordinarily, cumulative acts of misconduct and repeated disregard for requests for information from the Counsel for Discipline will lead to disbarment.[9] Given Thew's repeated acts of neglect and deceit, we find that Thew should be disbarred, effective immediately.

---

[7] *State ex rel. Counsel for Dis. v. Wintroub*, 277 Neb. 787, 765 N.W.2d 482 (2009).

[8] *State ex rel. Counsel for Dis. v. Samuelson*, 280 Neb. 125, 783 N.W.2d 779 (2010).

[9] *State ex rel. Counsel for Dis. v. Sutton*, 269 Neb. 640, 694 N.W.2d 647 (2005).

IV. CONCLUSION

Thew committed a series of ethical breaches over several years, affecting a number of clients. Thew failed to provide competent counsel, and made false and misleading statements to hide the fact that he procrastinated. Thew also failed to notify his clients of his suspension and failed to safeguard his clients' interests. Thew's misconduct continued during the investigation by the Counsel for Discipline, and Thew ignored the letters sent by the Counsel for Discipline. Accordingly, we find that Thew should be disbarred and hereby order him disbarred from the practice of law in the State of Nebraska, effective immediately. Thew shall forthwith comply with all terms of Neb. Ct. R. § 3-316, and upon failure to do so, he shall be subject to punishment for contempt of this court. Accordingly, Thew is directed to pay costs and expenses in accordance with Neb. Rev. Stat. §§ 7-114 and 7-115 (Reissue 2007) and Neb. Ct. R. §§ 3-310(P) and 3-323 within 60 days after an order imposing costs and expenses, if any, is entered by the court.

JUDGMENT OF DISBARMENT.

HEAVICAN, C.J., and WRIGHT and MILLER-LERMAN, JJ., not participating.