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that the record is insufficient to adequately address on direct appeal whether trial counsel's failure to object denied Huston the effective assistance of counsel. Accordingly, we affirm the judgment of the district court.

AFFIRMED.

STATE OF NEBRASKA EX REL. COUNSEL FOR DISCIPLINE OF THE NEBRASKA SUPREME COURT, RELATOR, V. DAVID JAMES YOUNG, RESPONDENT.

824 N.W.2d 745

Filed January 18, 2013. No. S-11-968.

Original action. Judgment of suspension.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, MCCORMACK, MILLER-LERMAN, and CASSEL, JJ.

PER CURIAM.

INTRODUCTION

Respondent, David James Young, was admitted to the practice of law in the State of Nebraska on September 14, 2010. At all relevant times, he was engaged in the private practice of law in Omaha, Nebraska. On December 14, 2011, respondent was temporarily suspended. On April 17, 2012, the Counsel for Discipline of the Nebraska Supreme Court filed formal charges consisting of three counts against respondent. In the three counts, it was alleged that by his conduct, respondent had violated his oath of office as an attorney, Neb. Rev. Stat. § 7-104 (Reissue 2007), and Neb. Ct. R. of Prof. Cond. §§ 3-501.8 (conflict of interest), 3-501.15 (safekeeping property), and 3-508.4 (misconduct).

On December 7, 2012, respondent filed a conditional admission pursuant to Neb. Ct. R. § 3-313 of the disciplinary rules, in which he knowingly chose not to challenge or contest the truth of the matters set forth in the formal charges and waived all proceedings against him in connection therewith in exchange for a judgment of a 20-month suspension retroactive

to the date of his temporary suspension, December 14, 2011, and, following reinstatement, 2 years of probation, including monitoring. If accepted, the monitoring shall be by an attorney licensed to practice law in the State of Nebraska and who shall be approved by the Counsel for Discipline. The monitoring plan shall include, but not be limited to, the following: During the first 6 months of the probation, respondent will meet with and provide the monitor a weekly list of cases for which respondent is currently responsible, which list shall include the date the attorney-client relationship began, the general type of case, the date of last contact with the client, the last type and date of work completed on file (pleading, correspondence, document preparation, discovery, or court hearing), the next type of work and date that work should be completed on the case, any applicable statutes of limitations and their dates, and the financial terms of the relationship (hourly, contingency, et cetera). After the first 6 months through the end of the probation, respondent shall meet with the monitor on a monthly basis and provide the monitor with a list containing the same information as set forth above; respondent shall reconcile his trust account within 10 days of receipt of the monthly bank statement and provide the monitor with a copy within 5 days; and respondent shall submit a quarterly compliance report with the Counsel for Discipline, demonstrating that respondent is adhering to the foregoing terms of probation. The quarterly report shall include a certification by the monitor that the monitor has reviewed the report and that respondent continues to abide by the terms of the probation. Finally, respondent shall pay all the costs in this case, including the fees and expenses of the monitor, if any.

The proposed conditional admission included a declaration by the Counsel for Discipline, stating that respondent's request for 20 months' suspension retroactive to the date of his temporary suspension, December 14, 2011, followed by 2 years of probation "appears to be appropriate under the facts of this case and will adequately protect the public."

FACTS

Count I.

With respect to count I, the formal charges state that on October 26 and 27, 2011, the Counsel for Discipline received two grievance letters from attorney Kelly Shattuck, one of respondent's former employers. Respondent had been employed as an associate attorney by the Vacanti, Shattuck law firm from April 26 until October 11, 2011. During the course of his employment, respondent agreed to represent a 19-year-old woman who, on August 20, 2011, was ticketed for driving under the influence and having an open container in a public place. The client contacted respondent because they had formerly worked together and respondent had given her his business card.

Also on August 20, 2011, the client signed a flat fee agreement with the Vacanti, Shattuck firm, but the agreement did not specify the amount of the fee. According to the client, respondent advised her that the normal fee was $2,000, but that respondent was going to charge her only $1,500.

The client paid respondent $750 by check on or about August 21, 2011. Respondent deposited the check on August 22 into a bank account that was not the Vacanti, Shattuck office trust account. The client paid the balance of $750 on or about September 14 by check. It appears that on the following day, that check was also deposited into the same bank account where the initial $750 was deposited.

The criminal complaint regarding the client was not filed with the county court until September 14, 2011. After accepting the case, respondent did represent the client and was able to negotiate a favorable plea agreement with the prosecutor. Respondent also represented her interest in the administrative license revocation proceedings and filed a subsequent appeal of the revocation with the district court.

According to the formal charges, during the process of severing his employment from Vacanti, Shattuck, on October 14, 2011, respondent sent an e-mail to Shattuck stating:

> "As for [the client], I have never charged anything because it was supposed to just be simple as the city didn't prosecute it as a [driving under the influence]. However, the [Department of Motor Vehicles] decided to charge forward with the [administrative license revocation], complicating matters. . . . Again, given that it was no charge and she's a friend, I'd probably keep the case and just deal with the State if need be."

After respondent left Vacanti, Shattuck, the client requested that Shattuck, not respondent, complete her case for her. During discussions between Shattuck and the client, Shattuck learned that notwithstanding respondent's e-mail of October 14, 2011, the client had in fact paid respondent $1,500 as set forth above. At no time prior to leaving the employ of Vacanti, Shattuck did respondent turn over the client's fees to the firm.

The formal charges allege that respondent's actions constitute a violation of his oath of office as an attorney as provided by § 7-104 and professional conduct rules §§ 3-501.15 and 3-508.4.

Count II.

With respect to count II, the formal charges state that in the course of respondent's representation of the client as set forth above in count I, she came to respondent's office after business hours to sign and retrieve some papers. When the client entered the office, she and respondent engaged in typical pleasantries and then went into respondent's private office to review documents. According to the client, at one point, respondent wanted to show her a picture of a motorcycle on his computer screen and directed her to come around behind the desk. According to the formal charges, when the client came around the desk, respondent pulled her down onto his lap and touched her in an inappropriate manner. Shortly thereafter, respondent and the client began exchanging personal text messages of an inappropriate nature.

The formal charges allege that respondent's actions constitute a violation of his oath of office as an attorney as provided by § 7-104 and professional conduct rule § 3-508.4.

Count III.

With respect to count III, the formal charges state that on July 26, 2011, during the course of his employment with Vacanti, Shattuck, respondent represented another female client at a custody hearing in Washington County, Nebraska, when Shattuck, the client's attorney of record, was unable to attend the hearing. Thereafter, respondent began calling, e-mailing, and text messaging the client. According to the formal charges, the messages became "unprofessional including comments of a sexual nature." The client brought this to the attention of Shattuck after respondent left the firm. According to the client, she and respondent never actually engaged in any intimate acts. When respondent left the employment of Vacanti, Shattuck, the client asked that someone other than respondent work on her case.

The formal charges allege that respondent's actions constitute a violation of his oath of office as an attorney as provided by § 7-104 and professional conduct rules §§ 3-501.8 and 3-508.4.

ANALYSIS

Section 3-313, which is a component of our rules governing procedures regarding attorney discipline, provides in pertinent part:

> (B) At any time after the Clerk has entered a Formal Charge against a Respondent on the docket of the Court, the Respondent may file with the Clerk a conditional admission of the Formal Charge in exchange for a stated form of consent judgment of discipline as to all or part of the Formal Charge pending against him or her as determined to be appropriate by the Counsel for Discipline or any member appointed to prosecute on behalf of the Counsel for Discipline; such conditional admission is subject to approval by the Court. The conditional admission shall include a written statement that the Respondent knowingly admits or knowingly does not challenge or contest the truth of the matter or matters conditionally admitted and waives all proceedings against him or her in connection therewith. If a tendered conditional

> admission is not finally approved as above provided, it may not be used as evidence against the Respondent in any way.

Pursuant to § 3-313, and given the conditional admission, we find that respondent knowingly does not challenge or contest the matters set forth in the formal charges. We further determine that by his conduct, respondent violated conduct rules §§ 3-501.8, 3-501.15, and 3-508.4, as well as his oath of office as an attorney licensed to practice law in the State of Nebraska. Respondent has waived all additional proceedings against him in connection herewith. Upon due consideration, the court approves the conditional admission and enters the orders as indicated below.

CONCLUSION

Respondent is suspended from the practice of law for a period of 20 months retroactive to the date of his temporary suspension, December 14, 2011. Should respondent apply for reinstatement, his reinstatement shall be conditioned upon respondent's being on probation for a period of 2 years, including monitoring following reinstatement, subject to the terms of probation agreed to by respondent in the conditional admission and outlined above. Respondent shall comply with Neb. Ct. R. § 3-316, and upon failure to do so, he shall be subject to punishment for contempt of this court. Respondent is also 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(B) within 60 days after the order imposing costs and expenses, if any, is entered by the court.

JUDGMENT OF SUSPENSION.