

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case Nos.: 00-O-13432 (00-O-13795;
	)	00-O-14525; 00-O-14578;
	)	00-O-14890; 00-O-14903;
	)	00-O-15015; 00-O-15179;
	)	01-O-00371; 01-O-00913;
	)	01-O-01011; 01-O-01197;
THOMAS ALAN STANLEY,	)	01-O-01384; 01-O-01589;
	)	01-O-01868; 01-O-03701);
	)	00-O-13819 (01-O-00862;
	)	01-O-02690; 01-O-03663;
	)	02-O-11464; 02-O-12937;
	)	02-O-13705; 03-O-00300;
Member No. 45990,	)	03-O-00560; 03-O-03580;
	)	04-O-10013; 04-O-13232);
	)	01-J-01613 (Cons.)
)	
	)	DECISION AND ORDER SEALING
	)	CERTAIN DOCUMENTS
A Member of the State Bar.)	
)	

INTRODUCTION

In this consolidated disciplinary proceeding, respondent Thomas Alan Stanley (respondent) was accepted for participation in the State Bar Court’s Alternative Discipline Program (ADP).¹ As the court has now found that respondent has successfully completed the ADP, the court will recommend to the Supreme Court that respondent be suspended from the

¹ The ADP was formerly known as the (Pilot) Program for Respondents with Substance Abuse or Mental Health Issues.

practice of law in California for two (2) years, that execution of that period of suspension be stayed, and that he be placed on probation for five (5) years subject to certain conditions including a four-month suspension which will continue at least until he provides proof that he has made specified restitution.

PERTINENT PROCEDURAL HISTORY

Respondent contacted the State Bar of California's Lawyer Assistance Program (LAP) on April 10, 2002, to assist him with his substance abuse issues.

On July 31, 2002, the State Bar of California's Office of the Chief Trial Counsel (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent in case nos. 00-O-13432 (00-O-13795; 00-O-14525; 00-O-14578; 00-O-14890; 00-O-14903; 00-O-15015; 00-O-15179; 01-O-00371; 01-O-00913; 01-O-01011; 01-O-01197; 01-O-01384; 01-O-01589; 01-O-01868; 01-O-03701) and in case no. 01-J-01613. A First Amended NDC was filed in case no. 01-J-01613 on August 1, 2002.²

Respondent signed a LAP Participation Agreement on November 2, 2002.³ Respondent also submitted a declaration to the court on November 22, 2002, which established a nexus between respondent's substance abuse issues and his misconduct.⁴ Thereafter, respondent was provisionally accepted into the ADP.

In December 2003, the parties entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) in case nos. 00-O-13432 (00-O-13795; 00-O-14525; 00-O-14578; 00-O-14890; 00-O-14903; 00-O-15015; 00-O-15179; 01-O-00371; 01-O-00913; 01-O-01011; 01-O-01197; 01-O-01384; 01-O-01868; 01-O-03701); 01-J-01613. The Stipulation, which was

² These matters were originally assigned to the Honorable Paul A. Bacigalupo. They were reassigned to the Honorable Robert M. Talcott effective January 6, 2003. These matters were consolidated pursuant to an order filed December 15, 2003.

³ The terms of respondent's Participation Plan were amended in 2009.

⁴ Respondent also submitted another declaration and a supplemental declaration on December 5, 2003.

received by the court on December 12, 2003, sets forth the factual findings, legal conclusions and mitigating and aggravating circumstances in those matters.

On April 18, 2005, the court received the parties' addendum to the Stipulation pertaining to case nos. 01-O-01589;⁵ 00-O-13819 (01-O-00862; 01-O-02690; 01-O-03663; 02-O-11464; 02-O-12937; 02-O-13705; 03-O-00300; 03-O-00560; 03-O-03580; 04-O-10013; 04-O-13232.)

Following briefing by the parties, the Hon. Robert M. Talcott issued a Decision Re Alternative Recommendations for Degree of Discipline (Decision Re Alternative Recommendations) dated June 28, 2005, formally advising the parties of (1) the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP and (2) the discipline which would be recommended if respondent failed to successfully complete, or was terminated from, the ADP.

After agreeing to those alternative possible dispositions, respondent and his counsel executed the Contract and Waiver for Participation in the State Bar Court's ADP; the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on June 28, 2005. These matters were reassigned to the undersigned judge effective November 3, 2006. Respondent participated successfully in both the LAP and the State Bar Court's ADP. On August 8, 2008, the court filed an order extending respondent's participation in the ADP until further notice by the court.

Thereafter, the parties filed with the court extensive briefing on respondent's request to obtain credit for time served while his practice was restricted under Business and Professions Code section 6007, subdivision (h). The court considered the request, but denied it. Further, respondent filed a motion to reduce the levels of discipline previously ordered by Judge Talcott. This was also denied, after briefing by the parties. In addition, several matters in investigation

⁵ Case no. 01-O-01589 is actually correlated with case no. 00-O-13432.

were brought to the attention of the court and were considered for incorporation into the pending proceeding. After considering those matters, the Office of the Chief Trial Counsel elected not to pursue them, and respondent proceeded to prepare for graduation from the ADP.

After receiving a one-year certificate from the LAP certifying that: (1) the LAP is not aware of the use of any unauthorized substances by respondent for at least one year prior to January 6, 2010; and (2) respondent has satisfied the requirements set forth in the LAP Evaluation/Participation Plan (Agreement) for at least one year prior to January 6, 2010, and during this time, respondent has maintained mental health stability and has participated successfully in the LAP, the court filed an order on February 3, 2010, finding that respondent has successfully completed the ADP. This matter was submitted for decision on March 4, 2010, after the court found, after receiving respondent's declaration and the State Bar's response thereto, that respondent had made sufficient efforts to satisfy certain obligations ordered by the court.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The parties' Stipulation and addendum thereto, including the court's order approving the Stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein. In summary, respondent admitted to extensive misconduct in multiple separate client matters, as well as to multiple willful violations of rule 1-320(A) [financial arrangements with non-lawyers] of the Rules of Professional Conduct of the State Bar of California⁶ and to the commission of acts of moral turpitude in violation of Business and Professions Code section 6106.⁷

⁶ Unless otherwise indicated, all further references to rule(s) refer to the Rules of Professional Conduct of the State Bar of California.

⁷ Unless otherwise indicated, all further references to section(s) refer to the Business and Professions Code.

Respondent's misconduct in the multiple client matters primarily involved respondent's handling of serious criminal matters on behalf of his clients. The parties stipulated to facts and conclusions of law which establish respondent's violation of the following:

Rule 3-110(A) [failure to competently perform legal services]	26 client matters
Rule 3-700(A)(2) [improper withdrawal from employment]	14 client matters
Rule 3-700(D)(1) [failure to promptly release client file]	6 client matters
Rule 3-700(D)(2) [failure to refund unearned fees]	18 client matters
Rule 4-100(B)(3) [failure to render appropriate accounts]	12 client matters
Section 6068, subdivision (m) [failure to communicate]	16 client matters
Rule 3-500 [failure to communicate]	1 client matter

Additionally, the parties stipulated that respondent improperly agreed to an arrangement whereby attorney fees received from clients would be split on a percentage basis with a non-attorney in willful violation of rule 1-320(A).

Finally, the parties stipulated that, by repeatedly representing to clients that he would represent their interests and by thereafter: (1) repeatedly failing to perform the services for which he was retained; (2) repeatedly abandoning clients; (3) repeatedly failing to communicate with clients; and (4) repeatedly refusing, over long periods of time, to refund unearned advanced attorney fees to multiple clients, respondent committed acts of moral turpitude in violation of section 6106.

In aggravation, respondent's misconduct involved multiple acts of wrongdoing. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b)(ii).)⁸ Respondent's misconduct also significantly harmed his clients. (Std. 1.2(b)(iv).)

⁸ All further references to standard(s) or std. are to this source.

In mitigation, respondent has no prior disciplinary record in more than 28 years of practice prior to the commencement of misconduct (std. 1.2(e)(i)), and he displayed spontaneous cooperation and candor to the State Bar during the disciplinary proceedings (std. 1.2(e)(v)). Although the parties stipulated that respondent's partial restitution was a mitigating circumstance, it is not entitled to significant weight, as most of it was made pursuant to an order in a related proceeding, and restitution to one client was made after the client obtained a judgment against respondent. The court also found that certain letters attached to respondent's October 19, 2003, declaration and December 7, 2003, supplemental declaration are entitled to some weight in mitigation as evidence of good character. (Std. 1.2(e)(vi).) Furthermore, it is now appropriate to consider respondent's successful completion of the ADP as a further mitigating circumstance in this matter. (Std. 1.2(e)(iv).)

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, preserve public confidence in the legal profession, and maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate alternative discipline recommendations if respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law. In particular, the court considered standards 1.2, 1.3, 1.4, 1.5, 1.6, 2.2(b), 2.3, 2.4(a), 2.4(b) and 2.10 and *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071 and *Young v. State Bar* (1990) 50 Cal.3d 1204.

Because respondent has now successfully completed the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the lower level of discipline, set forth more fully below, contained in the Decision Re Alternative Recommendations.

DISCIPLINE

Recommended Discipline

It is hereby recommended that respondent **Thomas Alan Stanley**, State Bar Number 45990, be suspended from the practice of law in California for two (2) years, that execution of that period of suspension be stayed, and that he be placed on probation⁹ for a period of five (5) years subject to the following conditions:

1. Respondent Thomas Alan Stanley is suspended from the practice of law for a minimum of four months, and he will remain suspended until the following requirements are satisfied:
 - i. He makes restitution to Edward Ruiz in the amount of \$2,500, plus 10% interest per year from July 1, 2001 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Edward Ruiz, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;
 - ii. He makes restitution to Juana Martinez Ramos in the amount of \$2,500, plus 10% interest per year from August 1, 2001 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Juana Martinez Ramos, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;
 - iii. He makes restitution to John Cheney in the amount of \$4,217, plus 10% interest per year from June 1, 2001 (or reimburses the Client Security Fund, to the extent of any payment from the fund to John Cheney, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;
 - iv. He makes restitution to Jaime Mercado in the amount of \$6,000, plus 10% interest per year from June 22, 2003 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Jaime

⁹ The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

Mercado, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;

- v. He makes restitution to James Mason or Katherine Mason in the amount of \$4,000, plus 10% interest per year from September 22, 1999 (or reimburses the Client Security Fund, to the extent of any payment from the fund to James Mason or Katherine Mason, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;
- vi. He makes restitution to Maria Ibarra in the amount of \$1,000, plus 10% interest per year from June 7, 2001 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Maria Ibarra, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;
- vii. He makes restitution to JoeGene Castillo in the amount of \$8,000, plus 10% interest per year from January 1, 2002 (or reimburses the Client Security Fund, to the extent of any payment from the fund to JoeGene Castillo, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles;¹⁰
- viii. He provides satisfactory proof to the Office of Probation that he has made the specified restitution, if any, pursuant to any award, decision or final determination of a fee arbitrator in any of the matters in which respondent must offer, in writing, to initiate and participate in binding fee arbitration as specified in the Alternative Discipline Program Contract (or reimburses the Client Security Fund, to the extent of any payment from the fund to anyone pursuant to an award, decision or final determination of a fee arbitrator, in accordance with Business and Professions Code section 6140.5);¹¹ and
- ix. If he remains suspended for two years or more as a result of not satisfying the preceding conditions, he must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)

¹⁰ To the extent the Client Security Fund has paid only principal amounts, respondent will still be liable for interest payments to the claimants where appropriate. To the extent respondent has paid any restitution prior to the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent will be given credit for such payments provided satisfactory proof of such payments is shown to the State Bar's Office of Probation.

¹¹ See footnote 11.

2. Respondent Thomas Alan Stanley must also comply with the following additional conditions of probation:

- i. During the probation period, respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California;
- ii. Within ten (10) calendar days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone number, respondent must report such change in writing to both the Office of Probation and to the Membership Records Office of the State Bar;
- iii. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the period during which these probation conditions are in effect. Under penalty of perjury, respondent must state in each report whether he has complied with the State Bar Act, the Rules of Professional Conduct and all conditions of probation during the preceding calendar quarter. If the first report will cover less than thirty (30) calendar days, that report must be submitted on the reporting date for the next calendar quarter and must cover the extended period.

In addition to all quarterly reports, respondent must submit a final report, containing the same information required by the quarterly reports. The final report must be submitted no earlier than twenty (20) calendar days before the last day of the period of probation and no later than the last day of the probation period;

- iv. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully, all inquiries of the Office of Probation which are directed to him personally or in writing relating to whether respondent is complying or has complied with the conditions of his probation;
- v. Within one year of the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent must provide the Office of Probation with satisfactory proof of his attendance at a session of State Bar Ethics School and of his passage of the test given at the conclusion of that session;
- vi. Respondent must comply with all provisions and conditions of his Participation Agreement/Plan with the Lawyer Assistance Program (LAP) and must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and his

compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition; and

- vii. If he has not previously done so, within 30 days after the effective date of the Supreme Court's final disciplinary order in this matter, respondent must write to the following individuals and therein offer to initiate and participate in binding fee arbitration regarding respondent's outstanding fee dispute with said individual(s) upon the request of said individual(s): Ahmed Shohayeb, Steve Millet, Cameron Conway, Glenn Estrada, Kristine Arutunyan, Francisca Mendoza and Sarah Baker. Unless respondent has previously done so, within 40 days after the effective date of the Supreme Court's final disciplinary order in this matter, respondent must provide the State Bar's Office of Probation with copies of the letters offering to initiate and participate in binding fee arbitration for each of the individuals set forth above. Respondent must initiate and participate in binding fee arbitration upon the request of any of these individuals and must advise the State Bar's Office of Probation, in writing, of any request to participate in fee arbitration made by any of these individuals within 15 days after any such request or within 30 days after the effective date of the Supreme Court's final disciplinary order in this matter, whichever is later. Respondent must abide by any award, decision or final determination of any such fee arbitrator. Within 30 days after issuance of an award, decision or final determination by any fee arbitrator pursuant to any such fee arbitration, or within 30 days after the effective date of the Supreme Court's final disciplinary order in this matter, whichever is later, respondent must provide a copy of said award, decision or final determination to the State Bar's Office of Probation.
3. At the expiration of the period of probation, if Thomas Alan Stanley has complied with all conditions of probation, the two (2) year period of stayed suspension will be satisfied and that suspension will be terminated.

Multistate Professional Responsibility Examination

It is also recommended that Thomas Alan Stanley be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of the Supreme Court's final disciplinary order, or during the period of his suspension, whichever is longer and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

Rule 9.20, California Rules of Court

It is further recommended that respondent Thomas Alan Stanley be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within thirty (30) and forty (40) calendar days, respectively, after the effective date of the Supreme Court's final disciplinary order in this matter.

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

DIRECTION RE DECISION AND ORDER SEALING CERTAIN DOCUMENTS

The court directs a court case administrator to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 806(c) of the Rules of Procedure of the State Bar of California (Rules of Procedure), all other documents not previously filed in this matter are ordered sealed pursuant to rule 23 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosures. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

IT IS SO ORDERED.

Dated: May _____, 2010

RICHARD A. HONN
Judge of the State Bar Court