

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos.: 05-O-03450-RAH (05-O-04063;
)	05-O-04922; 06-O-11075; 06-O-
LAWRENCE GEORGE LEWIS, JR.,)	15000; 07-O-11018; 08-O-10692)
)	
Member No. 214652,)	DECISION AND ORDER SEALING
)	CERTAIN DOCUMENTS
A Member of the State Bar.)	
)	

Introduction¹

In this original disciplinary proceeding, respondent **Lawrence George Lewis, Jr.,** (respondent) was accepted for participation in the State Bar Court's Alternative Discipline Program (ADP). 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 practice of law in California for two years, that execution of that period of suspension be stayed, and that he be placed on probation for two years subject to certain conditions, including a 60-day period of suspension (with credit given for the period of inactive enrollment under section 6233).

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

Significant Procedural History

The State Bar of California, Office of the Chief Trial Counsel (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent on August 14, 2008.

Respondent requested referral for evaluation of his eligibility for participation in the State Bar Court's ADP. Respondent then contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his mental health issues.

On November 10, 2008, respondent submitted a declaration which established a nexus between respondent's mental health issues and his misconduct in this matter.

The State Bar and respondent entered into a Stipulation Re Facts and Conclusions of Law (Stipulation). The Stipulation, filed February 20, 2009, sets forth the factual findings, legal conclusion, and mitigating and aggravating circumstances in this matter.

The court issued a Confidential Statement of Alternative Dispositions and Orders, 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. 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 February 20, 2009.

Respondent was placed on inactive enrollment effective February 20, 2009, and was returned to active status on April 22, 2009.

Respondent thereafter participated successfully in both the LAP and the State Bar Court's ADP. After receiving a Certificate of One Year of Participation in the Lawyer Assistance

Program - Mental Health, the court found that respondent has successfully completed the ADP at a status conference on August 3, 2011.

This matter was submitted for decision upon receipt of respondent's declaration of compliance with ADP on August 30, 2011.

Findings of Fact and Conclusion of Law

Culpability Findings

The parties' Stipulation, including the court's order approving the Stipulation as modified,² is attached hereto and hereby incorporated by reference, as if fully set forth herein.

Respondent stipulated to willfully violating: (1) rule 3-110(A) by failing to perform services competently; (2) rule 4-100(A) by failing to maintain client funds in client trust account; (3) rule 3-700(A)(2) by improperly withdrawing from employment; (4) rule 3-700(D)(1) by failing to return client file; (5) rule 3-700(D)(2) by failing to return unearned fees; (6) section 6106, by committing acts of moral turpitude; (7) section 6068, subdivision (m), by failing to communicate with client; (8) section 6068, subdivision (i), by failing to cooperate with the State Bar; and (9) section 6103 by failing to obey a court order.

Aggravation³

Multiple Acts of Misconduct (Std. 1.2(b)(ii))

In aggravation, respondent's misconduct evidences multiple acts of wrongdoing involving four client matters and his client trust account.

Trust Violation (Std. 1.2(b)(iii))

Trust funds were involved.

² The conduct described in the section 6106 charge (issuing checks against insufficient funds) did not result in significant harm to respondent's clients or the administration of justice.

³ All further references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Mitigation

Extreme Emotional Difficulties (Std. 1.2(e)(iv))

In mitigation, at the time of the misconduct, respondent suffered extreme emotional difficulties. His youngest son was diagnosed as autistic.

Candor/Cooperation to State Bar (Std. 1.2(e)(v))

Respondent displayed spontaneous cooperation and candor with the State Bar in its investigation and in these proceedings.

Other

In addition, it is appropriate to now consider respondent's successful completion of the ADP as a mitigating circumstance in this matter.

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, 2.3, 2.4, 2.6, and 2.10 and *In the Matter of Lais* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907 and *In the Matter of Whitehead* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354.

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.

Recommendations

It is hereby recommended that respondent Lawrence George Lewis, Jr., State Bar Number 214652, be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that he be placed on probation⁴ for a period of two years subject to the following conditions:

1. Respondent Lawrence George Lewis, Jr., is suspended from the practice of law for the first 60 days of probation (with credit given for inactive enrollment, which was effective February 20, 2009, through April 21, 2009 (Bus. & Prof. Code, §6233)).
2. Respondent Lawrence George Lewis, Jr., must also comply with the following additional conditions of probation:
 - a. 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;
 - b. Within 10 days of any change, respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California (Office of Probation), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;
 - c. Within 30 days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person or by telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request;
 - d. 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 of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings

⁴ 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.)

pending against him in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the period of probation and no later than the last day of the probation period;

- e. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation which are directed to respondent personally or in writing relating to whether respondent is complying or has complied with the probation conditions; and
- f. Respondent must comply with all provisions and conditions of his Participation Plan/Agreement with the Lawyer Assistance Program (LAP) and must provide the Office of Probation with certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of his Participation Plan/Agreement to the Office of Probation. Respondent 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 or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory certification of completion of the LAP.

- 3. At the expiration of the period of probation, if Lawrence George Lewis, Jr., has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

Multistate Professional Responsibility Examination

It is not recommended that Lawrence George Lewis, Jr., be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because he had already done so in November 2009. (Cal. Rules of Court, rule 9.10(b).)

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 5.388(c) (former rule 806(c)) of the Rules of Procedure of the State Bar of California (Rules of Procedure),⁵ all other documents not previously filed in this matter are ordered sealed pursuant to rule 5.12 (former 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 official duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure. 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: October ____, 2011

RICHARD A. HONN
Judge of the State Bar Court

⁵ Effective January 1, 2011, new Rules of Procedure of the State Bar of California became effective.