

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case Nos.: 05-O-04119 (06-O-14935;
)	07-O-12717; 07-O-14195);
)	08-O-11448 (08-O-13080;
STANLEY GOUMAS HILTON,)	08-O-13110; 08-O-14802;
)	09-O-10410); 08-C-10286 (Cons.)
)	
Member No. 65990,)	DECISION AND ORDER SEALING
)	CERTAIN DOCUMENTS
)	
A Member of the State Bar.)	

Introduction¹

In this consolidated disciplinary proceeding, respondent Stanley Goumas Hilton (respondent) was accepted for participation in the State Bar Court's Alternative Discipline Program (ADP).² As the court has now terminated respondent from the ADP, the court will recommend to the Supreme Court that respondent be suspended from the practice of law in California for four years, that execution of that period of suspension be stayed, and that he be placed on probation for five years subject to certain conditions, including a three-year period of suspension which will continue until he complies with the requirements of standard 1.4(c)(ii) of

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.

² The ADP was formerly known as the Program for Respondents with Substance Abuse or Mental Health Issues.

the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.³ Respondent, however, will receive credit towards his suspension for the period of his inactive enrollment under section 6233 from April 5, 2011.

Significant Procedural History

After the transmittal to the State Bar Court of the records of respondent's conviction, the Review Department of the State Bar Court issued an order in case no. 08-C-10286 on February 15, 2008, referring respondent's non-final misdemeanor conviction for violating Penal Code section 415(3) [using offensive words in a public place which are inherently likely to provoke an immediate violent reaction] to the Hearing Department of the State Bar Court for certain action.

On March 12, 2008, a Notice of Hearing on Conviction was filed in case no. 08-C-10286, and the matter was assigned to the undersigned judge.

After the Review Department received notice of the finality of respondent's conviction, the Review Department issued an order on April 24, 2008, augmenting its earlier reference to include a hearing and decision recommending the discipline to be imposed if the Hearing Department finds that the facts and circumstances surrounding the offense of which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

On January 30, 2009, the State Bar of California, Office of the Chief Trial Counsel (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent in case nos. 05-O-04119 (06-O-14935; 07-O-12717; 07-O-14195). This matter was also assigned to the undersigned judge.

Thereafter, case no. 08-C-10286 and case nos. 05-O-04119 (06-O-14935; 07-O-12717; 07-O-14195) were consolidated.

³ All further references to standards (Std.) are to this source.

The State Bar filed an Amended NDC on March 18, 2009, in case nos. 05-O-04119 (06-O-14935; 07-O-12717; 07-O-14195).⁴

On April 7, 2009, respondent filed a motion to dismiss the NDC in case nos. 05-O-04991, etc. without prejudice, so that an Early Neutral Evaluation Conference could occur. The State Bar opposed respondent's motion to dismiss; however, on April 30, 2009, the court filed an order severing case no. 08-C-10286 from the other matters and dismissing without prejudice case nos. 05-O-04119 (06-O-14935; 07-O-12717; 07-O-14195) because respondent had not had the opportunity to participate in the Early Neutral Evaluation process.

Thereafter, the State Bar petitioned for interlocutory review of the court's April 30, 2009 order; however, the Review Department filed an order on May 22, 2009, summarily denying the petition.

Respondent contacted the State Bar's Lawyer Assistance Program (LAP) on July 13, 2009, for assistance with his mental health issues.

On July 16, 2009, the court referred case no. 08-C-10286 to the ADP.

The court filed an order on July 29, 2009, enrolling respondent as an inactive member of the State Bar under section 6233 effective August 10, 2009. The court also ordered respondent to comply with certain requirements set forth in California Rules of Court, rule 9.20.

Respondent filed a rule 9.20 compliance declaration on September 24, 2009, and an amended rule 9.20 compliance declaration on November 12, 2009.

On September 29, 2009, the State Bar refiled a NDC against respondent in case nos. 05-O-04119 (06-O-14935; 07-O-12717; 07-O-14195), and on November 10, 2009, the State Bar

⁴ These cases were consolidated with case no. 08-C-10286.

filed a NDC against respondent in case nos. 08-O-11448 (08-O-13080; 08-O-13110; 08-O-14802;⁵ 09-O-10410).

Thereafter, on November 30, 2009, the court filed orders consolidating case nos. 05-O-04119 (06-O-14935; 07-O-12717; 07-O-14195), case nos. 08-O-11448 (08-O-13080; 08-O-13110; 08-O-14802; 09-O-10410) and case no. 08-C-10286.

Respondent submitted a nexus statement to the court on November 30, 2009, which established a nexus between respondent's mental health issues and his misconduct in these matters.

In furtherance of his participation in the ADP, respondent signed a long-term Participation Plan with the LAP on December 4, 2009.

The parties entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) in case nos. 05-O-04119 (06-O-14935; 07-O-12717; 07-O-14195); 08-O-11448 (08-O-13080; 08-O-13110; 08-O-14802; 09-O-10410); 08-C-10286 (Cons.) on January 26, 2010. The Stipulation sets forth the factual findings, legal conclusions and mitigating and aggravating circumstances in this matter. The Stipulation was received by the court on January 26, 2010.

Thereafter, the court advised 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 executed the Contract and Waiver for Participation in the State Bar Court's ADP; the court executed a Confidential Statement of Alternative Dispositions and Orders (Confidential Statement) formally advising the parties in writing of the alternative discipline recommendations

⁵ Although the NDC set forth this case no. as 08-O-14082, this was in error. The correct case number is 08-O-14802.

in this matter; the parties' Stipulation was filed; the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on February 1, 2010.⁶

Respondent thereafter participated in both the LAP and the State Bar Court's ADP. However, on May 4, 2010, the State Bar filed a request for the issuance of an Order to Show Cause (OSC) requiring respondent to show cause as to why he should not be terminated from the ADP. An OSC hearing was held on September 21, 2010. Following the OSC hearing, the court ordered that for respondent to stay in ADP he had to agree to binding arbitration with a client and comply with other orders of the court. The court did not terminate respondent from the ADP. A further OSC hearing was set for November 10, 2010. At the November 10, 2010, OSC hearing, the court orally denied the State Bar's motion to terminate respondent from the ADP.

The State Bar thereafter petitioned for interlocutory review of the order denying the State Bar's motion to terminate respondent from the ADP. The Review Department filed an order on December 15, 2010, summarily denying the petition.

However, the court scheduled an OSC hearing for April 5, 2011, based, in part, on information that another case was to be filed against respondent. Following the April 5, 2011 OSC hearing, the court filed an order on April 11, 2011, terminating respondent from the ADP based on the fact that respondent had committed additional acts of misconduct (the unauthorized practice of law) while in the ADP. The court also ordered that respondent remain on inactive status, but that he get credit for his inactive status from April 5, 2011 (the date of the OSC hearing).

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⁶ The Confidential Statement and the ADP Contract were lodged on February 1, 2010.

Findings of Fact and Conclusions of Law

I. Culpability Findings

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

Case Nos. 05-O-04119; 07-O-12717 – The Datesh Matter

In case nos. 05-O-04119; 07-O-12717, respondent stipulated that he: (1) failed to promptly refund unearned fees in willful violation of rule 3-700(D)(2); and (2) committed an act involving moral turpitude by causing a check to be dishonored through gross negligence (section 6106).

Case No. 06-O-14935 – The Advincula Matter

Respondent stipulated in case no. 06-O-14935 to: (1) repeatedly and recklessly failing to perform legal services with competence in willful violation of rule 3-110(A); and (2) committing acts involving moral turpitude, dishonesty, and corruption by making misrepresentations (section 6106).

Case No. 07-O-14195 – The Newman Matter

In case no. 07-O-14195, respondent stipulated that he: (1) willfully violated rule 4-100(B)(3) by failing to promptly render appropriate accounts to a client regarding all client funds coming into respondent's possession; (2) willfully violated rule 3-110(A) by recklessly failing to perform legal services with competence; (3) willfully violated section 6068, subdivision (m), by failing to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services; and (4) committed acts involving moral turpitude, dishonesty and corruption by misleading his clients (section 6106).

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Case No. 08-O-11448 – The Bahari Matter

In case no. 08-O-11448, respondent stipulated that he: (1) violated section 6068, subdivision (m), by failing to keep a client reasonably informed of a significant development in a matter in which he had agreed to provide legal services; (2) willfully violated rule 3-110(A) by recklessly and repeatedly failing to perform legal services with competence; (3) violated section 6068, subdivision (m), by failing to respond to reasonable client status inquiries; and (4) was grossly negligent by making a charge on his client's credit card that he knew he was not authorized to make (section 6106).

Case No. 08-O-13080 – The Fogarty Matter

Respondent stipulated in case no. 08-O-13080 that he: (1) willfully violated rule 3-110(A) by repeatedly and recklessly failing to perform legal services with competence; (2) violated section 6068, subdivision (m), by not responding to his client's reasonable status inquiries; (3) willfully violated rule 4-100(B)(3) by not providing an accounting to his client; and (4) willfully violated rule 3-700(D)(2) by not refunding unearned advanced fees.

Case No. 08-O-13110 – The Richerson Matter

In case no. 08-O-13110, respondent stipulated that he: (1) willfully violated rule 3-110(A) by recklessly failing to perform legal services with competence; and (2) violated section 6068, subdivision (m), by failing to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services.

Case No. 08-O-14802 – The Byrum Matter

In case no. 08-O-14802, respondent stipulated that he violated: (1) section 6068, subdivision (d), by employing, for the purposes of maintaining the causes confided in him, means which were inconsistent with truth and sought to mislead a judge or judicial officer by an artifice by refile in a court the same case that had been dismissed in another court without

revealing to the new court that he had been disqualified as counsel in the matter; (2) section 6068, subdivision (b), by failing to maintain the respect due to the courts of justice and judicial officers by remaining as counsel in the same case in which he had been disqualified; (3) section 6068, subdivision (b), by failing to maintain respect due the courts by filing on his client's behalf essentially the same action in another court, while a cross-complaint action in the first court was ongoing and after he had been disqualified from representing his client by the first court; (4) section 6068, subdivision(d), by seeking to mislead a judge by an artifice by claiming in an opposition to a motion to transfer venue that he had not seen the motion, when he had, in fact, received the motion; and (5) section 6103 by not paying court ordered sanctions.

Case No. 09-O-10410 – The Ruiz/Cortez Matter

In case no. 09-O-10410, respondent stipulated that he: (1) willfully violated rule 3-110(A) by repeatedly and recklessly failing to perform legal services with competence by failing to file anything in response to a cost memorandum; failing to notify either of his clients of the cost memorandum, its significance, or that respondent had not filed a response to the opposing parties' Memorandum of Costs; by failing to prosecute the fraud case; and failing to respond to a Special Motion to Strike resulting in a judgment against his client; (2) violated section 6068, subdivision (m), by failing to keep his client reasonably informed of significant developments in matters in which respondent had agreed to provide legal services by failing to inform his client of the cancellation of the case management conference in the fraud case and failing to inform his client of the judgments against the client; (3) willfully violated rule 3-110(A) by recklessly and repeatedly failing to perform legal services with competence by not responding to a July 17, 2008 Special Motion to Strike and by not filing an appeal of an August 22, 2008 order granting the defendant's motion to strike; and (4) violated section 6068, subdivision (m), by failing to keep a client reasonably informed of significant developments in a

matter in which respondent had agreed to provide legal services by not informing his client that he had not filed a response to the July 17, 2008 Special Motion to Strike, by not informing his client that he had 60 days in which to file an appeal from the order dismissing counts in his lawsuit; and by not informing his client that he had failed to file any response to the Memorandum of Costs.

Case No. 08-C-10286 – Respondent’s Conviction

Respondent pleaded nolo contendere to, and was convicted of, a misdemeanor violation of Penal Code section 415(3) (“using offensive words in a public place which are inherently likely to provoke an immediate violent reaction”). In case no. 08-C-10286, respondent stipulated that he committed an act of moral turpitude and violated section 6068, subdivision (a), by falsely reporting to police that his estranged wife had threatened to kill their three children.

I. Aggravation

In aggravation, respondent engaged in multiple acts of misconduct. The misconduct was repeated and evidences a pattern of misconduct. (Std. 1.2(b)(ii).) Respondent also demonstrated indifference towards rectification or atonement for the consequences of his misconduct. (Std. 1.2(b)(v).)

II. Mitigation

In mitigation, respondent has no prior disciplinary record over many years of practice. (Std. 1.2(b)(i).) The parties also stipulated that respondent cooperated with the State Bar during disciplinary proceedings by entering into the Stipulation in this matter. (Std. 1.2(e)(v).) However, as respondent did not successfully complete the ADP, he will not receive mitigating credit for his period of participation in either the ADP or the LAP.

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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 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, 2.6, 2.10 and 3.2 and *King v. State Bar* (1990) 52 Cal.3d 307; *Conroy v. State Bar* (1991) 53 Cal.3d 495; *Bledsoe v. State Bar* (1991) 52 Cal.3d 1074; *In the Matter of Hindin* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657; and *In the Matter of Dixon* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 23.

Because respondent has now been terminated from the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the higher level of discipline, set forth more fully below.

Recommendations

It is hereby recommended that respondent Stanley Goumas Hilton, State Bar Number 65990, be suspended from the practice of law in California for four years, that execution of that period of suspension be stayed, and that he be placed on probation⁷ for a period of five years subject to the following conditions:

1. Respondent Stanley Goumas Hilton is suspended from the practice of law for a minimum of the first three years of probation (with credit given for the period of inactive enrollment from April 5, 2011), and he will remain suspended until the following requirement is satisfied:

⁷ 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.)

- A. Stanley Goumas Hilton 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).)
2. 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;
3. 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;
4. 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;
5. 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 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;
6. 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;
7. Within one year of the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session;

8. Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation;
9. Respondent must obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of two times per month and must furnish evidence to the Office of Probation that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than 30 days after the effective date of the discipline in this matter. Treatment must continue for three years or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or the Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 5.300 of the Rules of Procedure of the State Bar of California. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification; and

9. At the expiration of the period of probation, if Stanley Goumas Hilton has complied with all conditions of probation, the four-year period of stayed suspension will be satisfied and that suspension will be terminated.

Multistate Professional Responsibility Examination

It is further recommended that Stanley Goumas Hilton be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

California Rules of Court, Rule 9.20

It is further recommended that respondent Stanley Goumas Hilton 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 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's final disciplinary order in this matter.

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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.

Order Regarding Inactive Enrollment

It is ordered that respondent's inactive enrollment under section 6233 terminate upon the effective date of the Supreme Court order imposing discipline in this matter.

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),⁸ 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 disclosures. All persons to

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⁸ Effective January 1, 2011, new Rules of Procedure of the State Bar of California became effective.

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: June _____, 2011

PAT McELROY
Judge of the State Bar Court