

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: 06-O-12875 (06-O-12876;
	)	06-O-12877; 06-O-13893;
	)	06-O-15074; 07-O-10137;
HOCK LOON YONG,	)	07-O-10701); 06-O-13258
	)	(06-O-13534; 06-O-14451)
	)	(Cons.)
Member No. 225497,)	
	)	ORDER TERMINATING RESPONDENT
	)	FROM ADP; DECISION AND ORDER
A Member of the State Bar.	)	SEALING CERTAIN DOCUMENTS;
	)	ORDER REGARDING INACTIVE
_____	)	ENROLLMENT

PERTINENT PROCEDURAL HISTORY

On December 21, 2006, prior to the filing of formal disciplinary charges, respondent contacted the State Bar of California’s Lawyer Assistance Program (LAP) to assist him with his mental health issue, and on June 15, 2007, respondent executed a Participation Plan with the LAP.

On December 28, 2006, 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. 06-O-13258 [06-O-13534; 06-O-14451]. This matter was initially assigned to the Honorable Richard A. Honn.

On April 4, 2007, Judge Honn issued an order granting respondent's oral motion to refer this matter to the court's Alternative Discipline Program (ADP) before the Honorable Richard A. Platel. Thereafter, this matter was reassigned to the undersigned judge effective May 21, 2007.

On June 20, 2007, the State Bar filed a NDC against respondent in case nos. 06-O-12875 [06-O-12876; 06-O-12877; 06-O-13893; 06-O-15074; 07-O-10137;¹ 07-O-10701]. This matter was also assigned to the undersigned judge. On August 2, 2007, the court issued an order referring this matter to the ADP, and on September 10, 2007, the court issued an order granting the parties' request to consolidate case nos. 06-O-12875, etc. and 06-O-13258, etc.

On November 15, 2007, the parties entered into a Stipulation Re Facts and Conclusions of Law.

On February 25, 2008, respondent submitted an Amended Nexus Statement to the court which established a nexus between respondent's mental health issue and his misconduct.

On June 5, 2008, respondent and his counsel signed the Contract and Waiver for Participation in the State Bar Court's ADP (Contract); the court executed the order approving the parties' Stipulation Re Facts and Conclusions of Law; the court executed its Confidential Statement of Alternative Dispositions and Orders; and respondent was accepted into the ADP as of this date.²

On June 10, 2008, the court filed an order enrolling respondent inactive pursuant to Business and Professions Code section 6233 effective September 1, 2008.

¹ The NDC referred to this case incorrectly as case no. 06-O-10137. This incorrect case number was carried over to the Confidential Statement of Alternative Dispositions and Orders and the Contract and Waiver for Participation in the State Bar Court's Alternative Discipline Program. However, the correct case no. is 07-O-10137.

² The Confidential Statement, the parties' Stipulation, and the Contract were all lodged with the court on June 9, 2008, and the order accepting respondent into the ADP was filed on this date.

On November 24, 2008, the LAP Evaluation Committee terminated respondent from the LAP. As a result, on December 23, 2008, the court issued an Order to Show Cause (OSC) requiring respondent to show cause, in writing, on or before January 11, 2009, as to why he should not be terminated from the ADP and have the high level of discipline imposed in this matter. Respondent failed to file a written response to the OSC. A hearing on the OSC was held on January 12, 2009.

Accordingly, the court orders respondent terminated from the ADP and recommends that the Supreme Court impose upon respondent the discipline set forth below in this decision.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This consolidated disciplinary proceeding involves six client matters³ and four non-client matters. In eight matters, respondent stipulated that he committed acts involving moral turpitude, dishonesty, or corruption by repeatedly issuing checks drawn on his client trust account when he knew or should have known that there were insufficient funds in willful violation of Business and Professions Code section 6106.⁴ In seven matters, respondent stipulated that he deposited personal funds into his client trust account and issued numerous checks for personal expenses in willful violation of rule 4-100(A) of the Rules of Professional Conduct.⁵ In four matters, respondent stipulated that he committed an act involving moral turpitude, dishonesty, or corruption by misappropriating client funds in willful violation of section 6106.⁶ In two matters, respondent stipulated that he intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of rule 3-110(A) and failed to keep a client reasonably informed of significant developments in a matter in which

³ However, one of these matters involved two unrelated clients.

⁴ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

⁵ Unless otherwise indicated, all further references to rule(s) are to the Rules of Professional Conduct of the State Bar of California.

⁶ In one of these matters, respondent misappropriated the funds of two unrelated clients.

he had agreed to provide legal services in willful violation of section 6068, subdivision (m). In one matter each, respondent stipulated to: (1) failing to comply with the requirements of section 6002.1 regarding his membership records address in willful violation of section 6068, subdivision (j); (2) failing to respond promptly to reasonable client status inquiries in willful violation of section 6068, subdivision (m); (3) failing to maintain the balance of funds received for a client's benefit and deposited in a properly labeled client trust bank account in willful violation of rule 4-100(A); (4) commingling his personal funds in a client trust account in willful violation of section 4-100(A); and (5) failing to cooperate in a disciplinary investigation. In aggravation, respondent stipulated that his misconduct evinces multiple acts of wrongdoing involving several clients and other entities. In mitigation, the parties' stipulated that respondent suffered extreme difficulties in his personal life at the time of the misconduct which were other than physical or emotional in nature and that after the filing of the NDCs, respondent had been cooperative with the State Bar during the disciplinary proceedings.

The parties' Stipulation Re Facts and Conclusions of Law, including the court's order approving the stipulation is attached hereto and hereby incorporated by reference, as if fully set forth herein. The Stipulation Re Facts and Conclusions of Law sets forth the factual findings, legal conclusions, and aggravating and mitigating circumstances in this matter.

DISCUSSION

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

After reviewing the parties respective briefs on the issue of discipline, and considering the Standards for Attorney Sanctions for Professional Misconduct (standard(s)) and case law

cited therein, the parties' stipulation setting forth the facts, conclusions of law, and the aggravating and mitigating circumstances with respect to this disciplinary proceeding, and respondent's statement regarding the nexus between his mental health issue and his misconduct, the court advised the parties of the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP and the discipline which would be recommended if respondent was terminated from, or failed to successfully complete, the ADP.

In determining the appropriate discipline to recommend in this matter if respondent 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. Respondent recommended that he receive a three-year stayed suspension with probation conditions and a six month period of actual suspension. In contrast, the State Bar recommended that respondent be disbarred. The court also considered standards 1.3, 1.4, 1.6, 2.2, 2.3, 2.4(b) and 2.6 and the case law cited in the parties' discipline briefs, including *Kennedy v. State Bar* (1989) 48 Cal.3d 610, *Rosenthal v. State Bar* (1987) 43 Cal.3d 658, *In the Matter of Tindall* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652, *Friedman v. State Bar* (1990) 50 Cal.3d 235, and *In re Abbott* (1977) 19 Cal.3d 249.

After agreeing to the discipline which the court would recommend to the Supreme Court if respondent successfully completed or was terminated from, or failed to successfully complete, the ADP, respondent executed the Contract to participate in the ADP, and respondent's period of participation in the ADP commenced.

Thereafter, on November 24, 2008, the LAP Evaluation Committee terminated respondent from the LAP due to his pattern of non-compliance with LAP requirements. As a result, on December 23, 2008, the court issued an Order to Show Cause (OSC) requiring respondent to show cause, in writing, on or before January 11, 2009, as to why he should not be

terminated from the ADP and have the high level of discipline imposed, as a result of his termination from the LAP, his failure to comply with the terms of his Contract in the ADP, his failure to attend scheduled status conferences, and his failure to comply with orders of the court regarding his participation in the ADP. Respondent did not file a response to the OSC. A hearing on the OSC was set for January 12, 2009.⁷

Accordingly, the court orders respondent terminated from the ADP and recommends to the Supreme Court the imposition of the discipline set forth in the court's Confidential Statement of Alternative Dispositions and Orders in the event respondent was terminated from, or failed to successfully complete, the ADP.

RECOMMENDED DISCIPLINE

It is recommended that respondent **HOCK LOON YONG** be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys in this state.

It is also recommended that respondent comply with the requirements of rule 9.20, 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 Order in this matter.

ORDER REGARDING INACTIVE ENROLLMENT

In light of respondent's termination from the court's ADP, respondent's inactive enrollment pursuant to Business and Professions Code section 6233 is terminated effective upon the filing of this order/decision.

However, in light of this court's disbarment recommendation, respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section

⁷ Although the order set forth the date of the hearing as January 12, 2008, this was an obvious typographical error.

6007, subdivision (c)(4). Respondent's inactive enrollment pursuant to section 6007, subdivision (c)(4), will be effective upon the filing of this order/decision and will terminate upon the effective date of the Supreme Court's order imposing discipline in this matter, as provided for by rule 490(b) of the Rules of Procedure of the State Bar of California (Rules of Procedure), or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

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 the parties' Stipulation Re Facts and Conclusions of Law lodged on June 9, 2008, as well as this Order Terminating Respondent from ADP; Decision and Order Sealing Certain Documents; Order Regarding Inactive Enrollment. Thereafter, pursuant to rule 806(c) of the 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 proceedings 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 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: April _____, 2009

DONALD F. MILES
Judge of the State Bar Court