

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 06-O-13132-DFM (07-O-12604;
)	07-O-13383)
ANTONIO LLOYD COGLIANDRO)	
)	DECISION
Member No. 73756)	
)	
A Member of the State Bar.)	

INTRODUCTION

In this disciplinary matter, respondent **ANTONIO LLOYD COGLIANDRO** is charged with and found culpable of numerous counts of misconduct involving three separate clients.

After considering the evidence and the law, the court recommends, among other things, that respondent be actually suspended for two years and until (1) he makes restitution as specified below; (2) he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law pursuant to standard 1.4(c)(ii); and (3) the State Bar Court has granted a motion to terminate respondent's current actual suspension under rule 205 of the Rules of Procedure.

Bitu Shasty appeared for the Office of the Chief Trial Counsel of the State Bar of California (State Bar). As will be set out more fully below, respondent filed an initial response to the charges but then did not appear in person or by counsel at trial.

SIGNIFICANT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) was filed on April 3, 2008, and was properly served on respondent on that same date at his then-official membership records address, by certified mail, return receipt requested, as provided in Business and Professions Code section¹ 6002.1, subdivision (c) (official address).

On April 18, 2008, respondent was properly served at his official address with a notice advising him, among other things, that a status conference would be held on May 8, 2008. Respondent did not appear at this status conference.

Respondent did appear at a status conference held on June 30, 2008 at which he requested to be referred to another judge for evaluation for possible inclusion in the court's Alternate Discipline Program (ADP). He was referred to another judge at that time, subsequently resulting in an earlier set trial date being vacated. As part of the evaluation process for the ADP, respondent received proper notice of and appeared at status conferences held on August 18, September 4, October 22, and December 15, 2008.

After December 15, 2008, respondent did not appear at the ADP evaluation status conferences scheduled on January 30, and February 9 and 24, 2009. The order memorializing the February 9 conference advised respondent that it was the final notice to appear and discuss his possible participation in the ADP. At the February 24 conference, when respondent did not appear, the matter was returned to standard proceedings.

Thereafter, on March 27, 2009, respondent was properly served with notice of a status conference set for April 20, 2009. He did not appear. He was properly served with an order memorializing the April 20 status conference. This order also notified respondent that a pretrial conference had been scheduled for July 6, 2009, and that the proceeding was scheduled for a

¹ Future references to section are to the Business and Professions Code.

three-day trial commencing on July 14, 2009.

Respondent then filed a written response to the NDC on May 27, 2009. He then did not appear at the July 6, 2009 pretrial conference; nor did he comply with any of the required pretrial conference procedures.

On July 14, 2009, when the case was called for trial, respondent also did not appear for trial, either personally or by counsel, despite having proper notice of the date. As a result, the court then entered respondent's default and enrolled him inactive. (Rules of Proc. of State Bar², rule 201.) This order was filed and properly served on respondent at his official address on that same date by certified mail, return receipt requested, and, by regular mail, at an alternate address. The trial was then conducted in accordance with rules 201 and 202.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The court's findings are based on the allegations contained in the NDC as they are deemed admitted as a consequence of respondent's default being entered. (§6088; rules 200(d)(1)(A), 201.) The findings are also based on the evidence admitted at trial.

Jurisdiction

Respondent was admitted to the practice of law in California on April 13, 1977, and has been a member of the State Bar at all times since.

Case No. 06-O-13132 (Fisher Matter)

On May 22, 1996, Marianna Fisher employed respondent, who is her cousin, to represent her in a wrongful death/ products liability claim after her husband was fatally injured while working. Respondent agreed to represent Fisher on a contingency fee basis.

On March 26, 1997, respondent filed a complaint on Fisher's behalf. (*Marianna Fisher v. Allis Chalmers, Siemens Energy & Automation, Inc., Pacific Gas & Electric Co., et al*, Merced

² Future references to the Rules of Procedure are to this source.

County Superior Court, case number 134759 (*Fisher* action).)

On August 18, 1998, defendants Siemens and Allis filed motions for summary judgment.

On October 14, 1998, respondent requested and the court entered the dismissal of defendant PG&E, leaving Siemens and Allis as the remaining defendants in the *Fisher* action.

On October 19, 1998, the court granted motions for summary judgment in favor of defendants Siemens and Allis. Judgment was entered in their favor on November 10, 1998.

On June 28, 1999, the court granted respondent's motion to set aside the October 19, 1998, orders granting the motions for summary judgment.

On November 1, 1999, the court granted defendants Siemens' and Allis' motions for summary judgment. The court entered an order granting these motions on December 3, 1999. On December 6, 1999, judgment was entered in favor of Siemens and Allis.

On December 15, 1999, respondent filed a motion for reconsideration of the court's November 1, 1999 order granting the motions for summary judgment. On February 25, 2000, the court granted the motion for reconsideration in part by vacating the judgment as to Allis, but it denied the request to vacate the judgment as to Siemens.

On February 29, 2000, respondent filed a notice of appeal of the February 25, 2000 order denying the request to vacate the judgment as to Siemens. On March 16, 2000, Siemens and Allis filed a cross-appeal alleging that the trial court erred in vacating the judgment as to Allis.

On February 4, 2002, the appellate court filed an opinion reversing the December 6, 1999 judgment in favor of Siemens; directed the trial court to vacate the December 3, 1999 court order granting the motions for summary judgment; directed the court to enter a new order denying the motions for summary judgment; reinstated the trial court's order vacating the December 6, 1999 judgment in favor of Allis; and remanded the case to the trial court for further proceedings.

On May 21, 2002, appellate court filed a remittitur.

From April through November 2004, Fisher left approximately three telephone messages with respondent's office inquiring about the status of her case and asking him to return the calls. Respondent received the messages, but did not return calls.

On January 18, 2006, more than five years after the remittitur was issued, Siemens and Allis filed a motion to dismiss the *Fisher* action, on the grounds that respondent did not prosecute the case after the issuance of the remittitur. Respondent received the motion but did not oppose or otherwise respond to it. Nor did he notify Fisher of it.

The motion to dismiss was heard on March 10, 2006. Respondent did not appear at the hearing. The court granted the motion and respondent was promptly served with notice that the court had dismissed the action. He received the notice, but he did not inform Fisher about the dismissal. Nor did he file a motion to set aside the dismissal or seek any other relief on his client's behalf. In sum, respondent did not perform any legal services of value for Fisher after the remittitur was issued in 2002.

Fisher and her daughter, Karen Little, credibly testified during the trial of the instant matter. Both complained that respondent just quit communicating with them about the case and that it was not until a new attorney was hired to pursue the matter that they learned that the action had been dismissed in 2006. By the time the new attorney was hired, they were advised that it was too late to seek to reinstate the action. Both individuals testified as to the emotional distress and financial harm suffered by Fisher as a consequence of the wrongful death action being abandoned, rather than being successfully pursued. Fisher has now secured a \$1.1 million judgment against respondent in a professional malpractice action, but that judgment has not been paid.

On July 11, 2006, the State Bar opened an investigation on case no. 06-O-13132 pursuant to a complaint filed by Fisher regarding allegations of misconduct by respondent in this matter.

On July 21 and August 9, 2006, a State Bar investigator sent respondent letters requesting that he answer in writing specific allegations of misconduct regarding Fisher's complaint. The letters were addressed to respondent's official membership records address and were sent by first-class mail, postage prepaid. They were not returned to the State Bar as undeliverable or for any other reason. Respondent received the letters but did not answer the letters or otherwise communicate with the investigator.

Count 1 - Rule of Professional Conduct³, Rule 3-110(A) (Competence)

Rule 3-110(A) prohibits an attorney from intentionally, recklessly or repeatedly failing to perform legal services competently.

By not performing any legal services of value for Fisher after the appellate court filed a remittitur on May 21, 2002; by allowing the *Fisher* action to be dismissed by the court without opposition; and by not filing a motion to set aside the dismissal or to seek any other relief, respondent intentionally, recklessly and repeatedly did not perform competently in wilful violation of rule 3-110(A).

Counts 2 and 3 - Section 6068, subd. (m) (Communication)

Section 6068, subdivision (m) requires an attorney to respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

By not returning Fisher's telephone calls, respondent did not respond promptly to her reasonable status inquiries. Further, by not informing Fisher that the court had dismissed her case, he did not keep her reasonably informed of significant developments. In both regards, he wilfully violated section 6068, subdivision (m).

Count 4 - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

³ Future references to rule are to this source.

Section 6068, subdivision (i) requires an attorney to participate and cooperate in any disciplinary investigation or other disciplinary or regulatory proceeding pending against that member.

By not providing a written response to the State Bar investigator's letters of July 21 and August 9, 2006, respondent did not participate in the investigation of the allegations of misconduct regarding the *Fisher* action, in wilful violation of 6068, subdivision (i).

Case No. 07-O-12604 (Berman Matter)

On May 15, 2003, Shaana Baluch Berman (Berman) employed respondent to represent her in a personal injury matter.

On May 16, 2005, respondent filed a complaint on Berman's behalf. (*Shaana Baluch v. Ricardo Villa et al.*, Los Angeles County Superior Court, case number 05N00509 (*Berman* action).) Respondent did not thereafter perform any legal services of value on Berman's behalf.

On August 22, 2005, the defendants propounded form interrogatories and a request for production of documents (discovery) on Berman by serving them on respondent. Respondent received the discovery but did not respond to it.

On October 26, 2005, the court scheduled a case management conference (CMC) for November 2, 2005 and served notice thereof on respondent. Respondent received this notice but did not appear at the CMC. As a result, the court scheduled for hearing on March 7, 2006 an order to show cause hearing re sanctions (OSC) and served notice of it on respondent. He received that notice but never responded to it.

On November 9-10, 2005, defense counsel served and filed motions to compel answers to discovery. A hearing on these motions was to be held on December 6, 2005. Although respondent received the motions, he did not file any opposition or otherwise respond to them.

On December 6, 2005, the court continued the hearing on the motions to compel to January 10, 2006. Respondent received timely notice of this hearing but did not appear at it. The court then granted the motions to compel; ordered Berman to serve written answers to discovery within 10 days; and ordered Berman and/or respondent to pay \$850 forthwith to the defendants as attorney fees and expenses. On January 12, 2006, defense counsel served notice of this order on respondent. Respondent received the notice, but did not serve answers to the discovery requests on Berman's behalf as ordered by the court.

On February 2-3, 2006, the defendants served and filed a motion to dismiss the *Berman* action for noncompliance with the court's January 10, 2006 order. The hearing on the motion was set for March 7, 2006. Respondent received the motion to dismiss but did not file any opposition or other response to it.

Thereafter, respondent failed to appear on March 7, 2006 at the hearings on the motion to dismiss and on the long-scheduled OSC re sanctions. The court then granted the motion to dismiss the *Berman* action and imposed sanctions of \$300 on Berman and/or respondent, payable forthwith to the defendants.

On March 8, 2006, the court served respondent with notice that the *Berman* action had been dismissed and that \$300 in sanctions have been imposed on him and/or Berman, payable forthwith to the defendants. Respondent received the notice.

At no time did respondent file a motion to set aside the dismissal of the *Berman* action or seek any other relief on Berman's behalf from the dismissal.

Respondent never informed his client, Berman, that the court had granted the motions to compel, ordered her to serve written answers to discovery within 10 days, and ordered her and/or respondent to pay \$850 forthwith to the defendants as attorney fees and expenses. He also did

not inform Berman that the court had dismissed her case and had imposed sanctions of \$300 on her and/or respondent payable forthwith to the defendants.

Berman sought to get a status report on numerous occasions from respondent, consistently getting no response to any of her inquiries. From August through October 2006, Berman left approximately 10 telephone messages with respondent's office inquiring about the status of the case and asking him to return her calls. Although respondent received the messages, he did not return Berman's calls. Berman did not learn of the action's bad outcome until after she sought assistance from others to determine its status.

At no time did respondent or Berman pay any portion of the \$850 in attorney fees and expenses for the \$300 in sanctions as ordered by the court or seek relief or modification of the court orders.

Berman suffered considerable economic and emotional harm as a consequence of respondent's abandonment of her action, including medical bills that have gone unpaid. Even more significantly, respondent allowed sanctions to be ordered against both her and respondent in the amount of \$1,150, sanctions which remain unpaid.

On July 3, 2007 the State Bar opened an investigation in case number 07-O-12604 pursuant to Berman's complaints of misconduct by respondent in her matter. On July 9, 2007, a State Bar investigator sent respondent a letter requesting that respondent answer in writing specific allegations of misconduct regarding Berman's complaint. Respondent received the letter.

During a September 27, 2007 telephone call, the investigator granted respondent an extension until October 5, 2007 to respond in writing to specified allegations of misconduct being investigated by the State Bar in the Berman complaint. At no time thereafter did

respondent provide a written response to the specified allegations of misconduct or otherwise communicate with the investigator.

Count 5 - Rule 3-110(A) (Competence)

By not appearing in court on November 2, 2005, January 10 and March 7, 2006; not performing any legal services of value after filing the complaint in the *Berman* action; and not filing a motion to set aside the dismissal of the *Berman* action or seeking any other relief, respondent intentionally, recklessly and repeatedly did not perform competently in wilful violation of rule 3-110(A).

Counts 6 and 7 - Section 6068, subd. (m) (Communication)

By not responding to Berman's telephone calls, respondent did not respond promptly to his client's reasonable status inquiries. By not informing Berman about the January 10 and March 7, 2006 court orders, he did not keep her reasonably informed of significant developments. In both regards, he wilfully violated section 6068, subdivision (m).

Count 8 - Section 6103 (Violation of Order)

In relevant part, section 6103 makes it a cause for disbarment or suspension for an attorney to wilfully disobey or violate a court order requiring the attorney to do or to forbear an act connected with or in the course of the profession, which the attorney ought in good faith to do or forbear.

By not paying any portion of the attorney fees, expenses and sanctions that were ordered on January 10 and March 7, 2006, respondent wilfully disobeyed a court order in wilful violation of section 6103.

Count 9 - Section 6068, subd. (i) (Not Participating in Disciplinary Investigation)

By not responding to the investigator's July 9, 2007 letter even after being granted an extension in which to do so, respondent did not participate in the investigation of the allegations

of misconduct regarding the Berman complaint, in wilful violation of 6068, subdivision (i).

Case No. 07-O-13383 (Hunt Matter)

On April 2006, Bryan Hunt (Bryan), a young driver, was arrested for driving under the influence of alcohol in Barstow, California. On May 26, 2006, he was arraigned in the Barstow DUI case. (*People v. Bryan Lee Hunt*, San Bernardino County Superior Court, case no. TBA046135).

On June 9, 2006, Bryant entered a plea of nolo contendere. The court at that time withheld entering judgment but entered an order placing Bryan on probation for three years.

On September 30, 2006, Bryan was again arrested for driving under the influence of alcohol in Newport Beach, California. He was arraigned on October 23, 2006, in the Newport Beach DUI case. (*People v. Bryan Lee Hunt*, Orange County Superior Court, case no. 06HM08814.)

On December 26, 2006, Bryan's grandfather, Clarence Hunt, consulted with respondent about representing Bryan in the Newport Beach DUI case. Respondent told Clarence that he could have Bryan withdraw his plea in the Barstow DUI case so that he would not have a prior conviction while litigating and negotiating the Newport Beach DUI case. Based on respondent's representations, Clarence employed respondent to withdraw Bryan's plea in the Barstow DUI case and to represent him in the Newport Beach DUI case. Respondent agreed to represent Bryan for a flat fee of \$10,000: \$5,000 for each DUI case. Clarence paid respondent the fee in two payments of \$5,000: one on December 27, 2006, the other on January 22, 2007.

Penal Code section 1018 states, in relevant part, that a motion to withdraw a plea must be filed "within six months after an order granting probation is made if entry of judgment is suspended." In the Barstow DUI case, the order granting probation was made on June 9, 2006. Therefore, a motion to withdraw the plea needed to be filed no later than December 9, 2006, a

deadline that had expired prior to the time that Clarence first consulted with respondent.

On January 26, 2007, respondent substituted in as attorney of record for Bryan in the Newport Beach DUI case.

On March 23, 2007, respondent filed a motion to withdraw Bryan's plea in the Barstow DUI case. On June 8, 2007, the court denied the motion because it was untimely.

On July 10, 2007, respondent appeared in court on Bryan's behalf in the Newport Beach DUI case. Thereafter, respondent did not provide any legal services of value to Bryan in the Newport Beach DUI case or communicate with Bryan or Clarence.

While respondent was present at the July 10, 2007 hearing, the court scheduled a pretrial conference for July 30, 2007. Respondent received notice of the hearing but did not appear at it.

The court called the respondent and left a message with this office directing respondent to appear in court by 4:30 p.m. on July 31, 2007. Although respondent received notice of this required court appearance, he did not attend.

From June through August 2007, Clarence left approximately 19 telephone messages on Bryan's behalf with respondent's office, inquiring about the status of Bryan's cases and asking that respondent return the calls. Although respondent received the messages, he did not return calls.

At trial herein, Clarence and Bryan credibly testified that they were getting no information from respondent regarding the case, including the scheduled court dates, and that they could not get respondent to return his calls. When Clarence was able to learn from the court of one assigned court date for Bryan, Clarence actually went to court and waited for respondent to appear. He waited there all day, until the court noticed his continuing presence and inquired as to the reason for it. Clarence then explained that respondent was not keeping his grandson and him advised of required court appearances and was also not responding to inquiries. The court

then contacted respondent's office, leaving phone messages and sending a letter to respondent's office, directing respondent to appear at court. When respondent did not respond to these directives from the court, the court then filed a complaint with the State Bar.

Respondent did not provide legal services of any value to Bryan in either DUI case. He did not earn any portion of the fees Clarence paid him.

On August 6, 2007, Clarence mailed respondent a letter requesting a refund of \$10,000 and the return of Bryan's files. Although respondent received the letter, he has not refunded any portion of the unearned fees to Bryan or Clarence.

Bryan eventually employed attorney Ralph Larsen to represent him, paying him an additional \$2,500. On August 14, 2007, Larsen mailed respondent a letter on Bryan's behalf, requesting the return of Bryan's files. Although respondent received the letter, at no time did he release Bryan's files to Larsen, Clarence or Bryan.

Count 10 - Rule 3-110(A) (Competence)

By telling Clarence that he could have Bryan's plea in the Barstow DUI case withdrawn when the time to file such a motion had already passed; repeatedly not appearing in court on the Newport Beach DUI case; and not providing services of any value to Bryan after appearing in court on July 10, 2007, respondent intentionally, recklessly and repeatedly did not perform competently in wilful violation of rule 3-110(A).

Count 11 - Section 6068, subd. (m) (Communication)

By not responding to Clarence's telephone calls made on Bryan's behalf, respondent did not respond promptly to his client's reasonable status inquiries in wilful violation of section 6068, subdivision (m).

Count 12 - Section 6103 (Violation of Court Order)

By not appearing in court on July 31, 2007, despite having notice of the court's order in

the Newport Beach DUI case, respondent disobeyed a court order in wilful violation of section 6103.

Count 13 - Rule 3-700(D)(2) (Unearned Fees)

Rule 3-700(D)(2) requires an attorney whose employment has terminated to promptly return any part of a fee paid in advance that has not been earned. By not refunding to Bryan or Clarence any portion of the \$10,000 in advanced fees, fees which he had not earned, respondent wilfully violated rule 3-700(D)(2).

Count 14 - Rule 3-700(D)(1) (Not Returning Client Papers or Property)

Rule 3-700(D)(1) requires an attorney whose employment has been terminated to promptly release to the client, at the client's request, all client papers and property, subject to any protective order or non-disclosure agreement. This includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports and other items reasonably necessary to the client's representation, whether the client has paid for them or not.

By not releasing Bryan's client files to Bryan, Clarence or Larsen, despite prior requests for those files, respondent wilfully violated rule 3-700(D)(1).

LEVEL OF DISCIPLINE

Aggravating Circumstances

It is the prosecution's burden to establish aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct⁴, std. 1.2(b).) The court finds the following aggravating factors.

Respondent's multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).)

Respondent's misconduct significantly harmed clients and the administration of justice. (Std. 1.2(b)(iv).) Fisher's and Berman's cases were dismissed after several court proceedings.

⁴ Future references to standard or std. are to this source.

They both suffered emotional and economic consequences as a result of respondent's misconduct. Fisher had to retain other counsel and eventually was awarded a judgment for damages in excess of \$1 million against respondent. Berman had unpaid medical bills and was exposed to liability for sanctions and attorney fees and costs due to respondent's misconduct. Bryan and Clarence also had to retain other counsel at additional cost since the unearned fees were not returned. To date, respondent has still failed to return the unearned fee paid by Clarence. All of this harm is a significant aggravating factor.

Respondent's failure to participate in this disciplinary matter at the pretrial conference, at trial, and prior to the entry of his default is a serious aggravating factor. (Std. 1.2(b)(vi).)

Mitigating Circumstances

Respondent bears the burden of establishing mitigation by clear and convincing evidence. (Std. 1.2(e).) Although respondent did not participate in these proceedings, the court takes judicial notice of his approximately 25 years of blemish-free practice prior to the first misconduct set forth above. (Std. 1.2(e)(i).) This is a mitigating factor.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.6(a).)

Standards 2.4(b), 2.6 and 2.10 apply in this matter. The most severe sanction is found at standard 2.6 which recommends suspension or disbarment for violations of section 6068, depending on the gravity of the offense or harm, if any, to the victim, with due regard to the purposes of imposing discipline.

The Supreme Court gives the standards “great weight” and will reject a recommendation consistent with the standards only where the court entertains “grave doubts” as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91, 92; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

Respondent has been found culpable, in three client matters, of violating rules 3-110(A) (three counts) and 3-700(D)(1) and (2) (one count each), as well as rules 6068, subdivisions (m) (five counts) and (i) (two counts) and 6103 (two counts). In aggravation, the court found multiple acts of misconduct, client harm, and lack of cooperation. The sole, and significant, mitigating factor is approximately 25 years of blemish-free practice prior to the commencement of the misconduct.

The court finds instructive *Bledsoe v. State Bar* (1991) 52 Cal.3d 1074. In *Bledsoe*, also a default case, the attorney was found culpable of misconduct involving four clients. In four matters, the attorney there did not perform services; in two matters he did not communicate; in two matters he did not refund legal fees; and in one matter, he withdrew from employment without giving sufficient notice or delivering necessary papers to his client. The attorney was also found culpable of not cooperating in a State Bar investigation. The attorney in *Bledsoe* had no prior record of discipline in 17 years of practice. There was no pattern of misconduct, but harm to three of his clients was found. The Supreme Court suspended the attorney for five years,

stayed its execution, and placed him on probation for five years on conditions including a two-year actual suspension and payment of restitution.⁵

Respondent's misconduct and demonstrated lack of respect for either the judicial or the disciplinary process cause this court to have substantial concern about his ability or willingness to comply with his ethical responsibilities to the public and to the State Bar. Having considered the evidence and the law, the court concludes that substantial discipline, including actual suspension for two years and until he makes restitution and complies with standard 1.4(c)(ii), is necessary to protect the public and the profession from future misconduct and harm.

DISCIPLINE RECOMMENDATION

Suspension Recommended

It is hereby recommended that respondent **ANTONIO LLOYD COGLIANDRO** be suspended from the practice of law for three years; that execution of that suspension be stayed, and that he be actually suspended from the practice of law for two years and until all of the following conditions are satisfied:

- A. He makes restitution to Clarence Hunt in the amount of \$10,000 plus 10% interest per annum from January 22, 2007 (or to the Client Security Fund to the extent of any payment from the fund to Clarence Hunt, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnishes satisfactory proof thereof to the State Bar's Office of Probation;⁶

⁵ The dissenting justices would have disbarred respondent for this misconduct on the basis of respondent's pattern of abandonment and his knowing election not to participate in the default hearing.

⁶ Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

B. He has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law pursuant to standard 1.4(c)(ii); and

C. The State Bar Court has granted a motion to terminate respondent's current actual suspension under rule 205 of the Rules of Procedure.

Future Probation

It is recommended that respondent be ordered to comply with any probation conditions hereinafter imposed by the State Bar Court as a condition for terminating his actual suspension. (Rules Proc. of State Bar, rule 205(g).)

MPRE

It is further recommended that respondent take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.)

Rule 9.20

The court recommends that respondent be ordered to comply with California Rules of Court, rule 9.20, and to 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 order in this matter.⁷

Costs

It is further recommended that costs be awarded to the State Bar in accordance with

⁷ Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or a contempt, an attorney's failure to comply with rule 9.20 is also, *inter alia*, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

section 6086.10 and that such costs be enforceable both as provided in section 6140.7 and as a money judgment.

Dated: September _____, 2009

DONALD F. MILES
Judge of the State Bar Court