

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case Nos. <b>06-O-15002-RAP (06-O-15003;</b>
	)	<b>06-O-15029; 07-O-11035;</b>
<b>MELCHOR EDUARDO QUEVEDO,</b>	)	<b>07-O-12014; 07-O-13026;</b>
	)	<b>08-O-11480; 08-O-11481)</b>
<b>Member No. 103144,</b>	)	
	)	<b>DECISION; ORDER SEALING</b>
A Member of the State Bar.	)	<b>DOCUMENTS; AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
_____	)	<b>ENROLLMENT</b>

**I. Introduction**

In this original disciplinary proceeding, respondent Melchor Eduardo Quevedo was accepted for participation in the State Bar Court’s Alternative Discipline Program (ADP). Respondent has been terminated from the State Bar Court’s ADP because of his failure to comply with the ADP’s requirements.

Therefore, pursuant to rule 5.384 of the Rules of Procedure of the State Bar and in light of his admitted misconduct, the court recommends that respondent be disbarred from the practice of law.

**II. Pertinent Procedural History**

**A. Respondent’s Acceptance into the Alternative Discipline Program**

Following the filing of a Notice of Disciplinary Charges (NDC) against respondent by the State Bar of California’s Office of the Chief Trial Counsel (State Bar) on April 16, 2009,

respondent requested referral for evaluation of his eligibility for participation in the State Bar Court's ADP.

Respondent had contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his mental health issues and signed a LAP Participation Plan on September 28, 2009.

On November 2 and 17, 2009, the court received respondent's declarations, which established a nexus between respondent's mental health issues and his misconduct in this matter.

On April 5, 2010, the court lodged a Confidential Statement of Alternative Dispositions and Orders (Statement), 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 executed the Contract and Waiver for Participation in the State Bar Court's ADP (Contract); the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on April 8, 2010.

The State Bar and respondent entered into a Stipulation Re Facts and Conclusions of Law (Stipulation). The Stipulation sets forth the factual findings, legal conclusions, and mitigating and aggravating circumstances, filed April 5, 2010.

**B. Respondent's Termination from the Alternative Discipline Program**

On April 23, 2012, the court issued an Order to Show Cause (OSC) of its intent to terminate respondent from participation in the ADP. Respondent, represented by attorney Kirk M. Barry, filed a response to the OSC. A hearing was held on May 30, 2012.

On June 8, 2012, the court determined that respondent was not in compliance with the ADP's requirements because he violated the terms of his Contract. The court found that there was additional misconduct which occurred after respondent was accepted in the ADP. There is

clear and convincing evidence that respondent: (1) made material misrepresentations to the State Bar Court in his California Rules of Court, rule 9.20 declaration filed on August 13, 2010; (2) made a material misrepresentation to a client; (3) failed to return unearned fees of \$15,000 to a client; and (4) failed to provide an accounting to a client.

Therefore, on June 8, 2012, respondent was terminated from the ADP based upon his noncompliance with the ADP conditions.

The court now issues this decision recommending the high level of discipline set forth in the Statement.

### **III. Findings of Fact and Conclusions Of Law**

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. Respondent stipulated to willfully violating 17 counts in eight matters, including: (1) Business and Professions Code section 6106 (moral turpitude) by issuing insufficiently funded checks, misappropriating client funds, and making misrepresentation to a client; (2) Business and Professions Code section 6068, subdivision (i), by failing to cooperate with the State Bar; (3) rule 4-100(A)<sup>1</sup> of the Rules of Professional Conduct by failing to maintain client funds in his client trust account; and (4) rule 3-300 of the Rules of Professional Conduct by failing to avoid interests adverse to a client.

Respondent's multiple acts of misconduct is an aggravating factor.<sup>2</sup> (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b)(ii).)<sup>3</sup>

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<sup>1</sup> The parties incorrectly stipulated to violating rule 4-100(B)(4) in case No. 08-O-11480. The correct violated rule is rule 4-100(A).

<sup>2</sup> Because respondent was found culpable of violating rule 4-100(A) and section 6106, his trust account violations are not considered in aggravation. (*In the Matter of Duxbury* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61.)

<sup>3</sup> All further references to standard(s) or std. are to this source.

Respondent practiced law for 23 years without a prior record of discipline is a significant mitigating factor. (Std. 1.2(e)(i).)

#### **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.)

After considering the Stipulation, scope of respondent's acts of misconduct, the aggravating circumstances, the standards, the relevant case law, and respondent's declaration regarding the nexus between his emotional and physical health difficulties and his misconduct in this matter, the court had advised respondent and the State Bar of the low and high levels of discipline which would be recommended to the Supreme Court, depending on whether respondent successfully completed the ADP or was terminated from the ADP. The recommended discipline was set forth in the Statement.

Accordingly, because respondent was terminated from the ADP, the court hereby recommends the high level of discipline to the Supreme Court.

#### **V. Recommendations**

The court recommends that respondent Melchor Eduardo Quevedo 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.

##### **A. Restitution**

The court also recommends that respondent be ordered to make restitution to the following payees:

- (1) Armand Rodriguez in the amount of \$6,800 plus 10 percent interest per year from November 3, 2006;

- (2) Ha Nguyen in the amount of \$4,301.25 plus 10 percent interest per year from January 1, 2007;
- (3) Alejandra Benzenery in the amount of \$7,385.77 plus 10 percent interest per year from January 1, 2006;
- (4) Phan Nguyen in the amount of \$1,250 plus 10 percent interest per year from January 1, 2008; and
- (5) Juvenal Moreno in the amount of \$20,000 plus 10 percent interest per year from April 6, 2006.

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. California Rules of Court, Rule 9.20**

It is also recommended that the Supreme Court order respondent to comply with rule 9.20, paragraph (a), of the California Rules of Court within 30 calendar days of the effective date of the Supreme Court order in the present proceeding, and to file the affidavit provided for in paragraph (c) within 40 days of the effective date of the order showing his compliance with said order.

**C. 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.

**VI. Order of Involuntary Inactive Enrollment**

It is ordered that respondent be transferred to involuntary inactive enrollment status pursuant to section 6007, subdivision (c)(4). The inactive enrollment will become effective three days from the date of service of this order and will terminate upon the effective date of the Supreme Court's order imposing discipline herein or as otherwise ordered by the Supreme Court.

## **VII. Order Sealing Documents**

The court directs a court case administrator to file this Decision, Order of Involuntary Inactive Enrollment and Order Sealing Documents. Thereafter, pursuant to rule 5.388(C) of the Rules of Procedure of the State Bar of California, all other documents not previously filed in this matter are ordered sealed under rule 5.12 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: July 12, 2012

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RICHARD A. PLATEL  
Judge of the State Bar Court