

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

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| In the Matter of |) | Case No.: 07-C-14386 |
| |) | |
| BRUCE CZACHOR, |) | DECISION AND DISCIPLINE ORDER; |
| |) | ORDER SEALING CERTAIN |
| Member No. 230073, |) | DOCUMENTS |
| |) | |
| <u>A Member of the State Bar.</u> |) | |

After the transmittal to the State Bar Court of the records¹ of the September 20, 2007, conviction of respondent Bruce Czachor (respondent) for violating New Jersey Statutes, Title 39, section 4-50 [Driving While Intoxicated], a misdemeanor, the Review Department of the State Bar Court issued an order on February 15, 2008, in case no. 07-C-14386, referring this matter to the Hearing Department of the State Bar Court for a hearing and decision recommending the discipline to be imposed if the Hearing Department finds that the facts and circumstances surrounding respondent's violation of New Jersey Statutes, Title 39, section 4-50, of which respondent was convicted, involved moral turpitude or other misconduct warranting discipline.

A Notice of Hearing on Conviction was filed against respondent on March 4, 2008, and the matter was assigned to the Honorable Donald F. Miles.

On April 15, 2008, Judge Miles referred this matter to the State Bar Court's Alternative Discipline Program (ADP) with the undersigned judge. Also on that date, respondent contacted

¹ The records included notice of the finality of respondent's conviction.

the State Bar of California's Lawyer Assistance Program (LAP) to assist him with his substance abuse issue.

On June 2, 2008, the undersigned judge issued an order reassigning this matter to the undersigned judge for all further proceedings.

The court received respondent's nexus statement on July 8, 2008, which established a nexus between his substance abuse issue and his misconduct in this matter.

Respondent executed a Participation Plan with the LAP on November 4, 2008.

The parties entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) in this matter on February 6, 2009. The Stipulation was received by the court on that same date.

On March 27, 2009, the court executed the Confidential Statement of Alternative Dispositions and Orders (Confidential Statement) which set forth the disposition which would be imposed if respondent successfully completed the ADP and the discipline which would be imposed if respondent was terminated from, or failed to successfully complete, the ADP.

In August 2009, respondent and his attorney executed the Contract and Wavier for Participation in the State Bar Court's ADP (Contract).

On August 21, 2009, the court executed an order approving the parties' Stipulation and the Stipulation was filed with the court. On that same date, the Contract and the Confidential Statement were lodged with the court, and respondent commenced his participation in the ADP.²

On October 19, 2009, the court received a report from the LAP of respondent's termination/withdrawal from the LAP as of October 16, 2009.

²On August 27, 2009, the court issued an order finding that respondent is accepted into the ADP, and that the start date of respondent's participation in the ADP is August 21, 2009.

In an October 20, 2009, e-mail message, respondent's counsel informed the court and Deputy Trial Counsel Monique Miller of the Office of the Chief Trial Counsel of the State Bar of California that respondent had chosen to be terminated from the ADP.

Thereafter, on October 26, 2009, the court issued an order terminating respondent from the ADP,³ and this matter was submitted for decision on that date.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On July 13, 2007, respondent was involved in a single vehicle accident in New Jersey. When officers responded to the scene, they observed objective signs of intoxication in respondent. He was arrested. Respondent had a blood alcohol concentration of 0.310%. Respondent was charged with violations of New Jersey Statute 39:4-50 [Driving While Intoxicated (DWI)] and 39:4-97 [Careless Driving]. On September 20, 2007, respondent pled guilty to the misdemeanor DWI charge, and the other charge was merged as part of the plea. Respondent also admitted a prior misdemeanor conviction in California in August 2001 for driving with a blood alcohol concentration of .08% or more (Vehicle Code section 23152(b)). Respondent stipulated that the facts and circumstances surrounding his conviction involve other misconduct warranting discipline. In mitigation, respondent displayed spontaneous candor and cooperation with the victims of his misconduct and to the State Bar during disciplinary investigation and proceedings. As an additional mitigating circumstance, it was noted that respondent has been practicing in New Jersey and New York for more than 20 years and has no prior record of discipline. There are no aggravating circumstances.

The parties' stipulation as to 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

³ Respondent's ADP Contract stated, ". . . if Respondent's participation in the LAP is terminated without successfully completing the LAP, Respondent's participation in the ADP will be terminated and discipline will be imposed or recommended" (Contract, page 1, ¶ 5.)

forth herein. The stipulation as to facts and conclusions of law set forth the factual findings, legal conclusion, 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 State Bar's brief on the issue of discipline, which was received by the court on October 28, 2008, and respondent's brief on the issue of discipline, which was received by the court on November 5, 2008, and considering the Standards for Attorney Sanctions for Professional Misconduct (standard(s)) and case law cited therein, the parties' stipulation setting forth the facts, conclusion of law, and mitigating circumstances in this matter, and respondent's statement regarding the nexus between his substance abuse issue and his misconduct, the court advised the parties of the disposition which would be imposed if respondent successfully completed the ADP and the discipline which would be imposed if respondent was terminated from, or failed to successfully complete, the ADP.

In determining the appropriate discipline to recommend in this matter if respondent is 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, and 3.4 and *In the Matter of Respondent I* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 260 and *In re Kelley* (1990) 52 Cal.3d 487.

After agreeing to the disposition or discipline which the court would impose if respondent successfully completed or was terminated from, or failed to successfully complete,

the ADP, respondent executed the Contract to participate in the ADP; the Contract was lodged with the court; and respondent's period of participation in the ADP commenced.

Thereafter, the court received notice from the LAP of respondent's termination/withdrawal from the LAP as of October 16, 2009. Furthermore, in an October 20, 2009, e-mail message, respondent's counsel informed the court and Deputy Trial Counsel Monique Miller that respondent had chosen to be terminated from the ADP. As such, on October 26, 2009, the court issued an order terminating respondent from the ADP.

Accordingly, the court will impose the discipline set forth in the court's Confidential Statement of Alternative Dispositions and Orders if respondent was terminated from, or failed to successfully complete, the ADP.

DISCIPLINE ORDER

Accordingly, it is ordered that respondent **BRUCE CZACHOR, State Bar Number 230073**, is hereby publicly reprovved. Pursuant to the provisions of rule 270(a) of the Rules of Procedure of the State Bar of California (Rules of Procedure), the public reprovval will be effective when this decision becomes final. Furthermore, pursuant to rule 9.19(a) of the California Rules of Court and rule 271 of the Rules of Procedure, the court finds that the interest of respondent and the protection of the public will be served by the following specified conditions being attached to the public reprovval imposed in this matter. Failure to comply with any condition(s) attached to this public reprovval may constitute cause for a separate proceeding for willful breach of rule 1-110 of the Rules of Professional Conduct of the State Bar of California. Respondent is hereby ordered to comply with the following conditions attached to his public reprovval for one year following the effective date of the public reprovval imposed in this matter:

1. During the reprobation period, respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California;
2. Within ten (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;
3. Within thirty (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 reprobation. 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 reprobation, respondent must promptly meet with the probation deputy as directed and upon request;
4. 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 reprobation. 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 reprobation 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 thirty (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 twenty (20) days before the last day of the period of reprobation and no later than the last day of the reprobation period;

5. 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 reprobation conditions;
6. 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;
7. Respondent must obtain an examination of his mental and physical condition with respect to his substance abuse issue pursuant to rule 184 of the Rules of Procedure of the State Bar of California from a qualified

practitioner approved by the Office of Probation and must comply with any treatment/monitoring plan recommended following such examination. The examination and any further help/treatment/monitoring recommended by the examining practitioner will be at respondent's own expense. The examination must be conducted no later than thirty (30) days after the effective date of the Supreme Court's final disciplinary order in this matter. Help/treatment/monitoring should commence immediately after said examination and, in any event, no later than thirty (30) days after said examination. With each quarterly report, respondent must furnish to the Office of Probation sufficient evidence, as specified by the Office of Probation, that he is so complying with this condition of probation. Treatment/monitoring must continue for the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the examining or treating practitioner determines that there has been a substantial change in respondent's condition, respondent or the State Bar's Office of Probation 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 550 of the Rules of Procedure. The motion must be supported by a written statement from the examining or treating practitioner, by affidavit or under penalty of perjury, in support of the proposed modification.

Upon the request of the Office of Probation, respondent must provide the Office of Probation with medical and confidentiality waivers and access to all of respondent's medical records necessary to monitor this probation condition. Revocation of any medical/confidentiality waiver is a violation of this condition. Any medical records obtained by the Office of Probation will be confidential and no information concerning them or their contents will be given to anyone except members of the Office of the Chief Trial Counsel, the Office of Probation, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition; and

8. Within ten (10) calendar days of their occurrence, respondent must report in writing to the State Bar's Office of Probation any of the following events: (1) his arrest; (2) the issuance of a criminal complaint in which he is a named defendant; (3) his conviction of any crime, whether by guilty verdict or by a plea of guilty or of nolo contendere; or (4) the imposition of any sentence after conviction.

COSTS

Costs are 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 DISCIPLINE ORDER; ORDER SEALING CERTAIN DOCUMENTS

The court directs a court case administrator to file this Decision and Discipline Order; Order Sealing Certain Documents. 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 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 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: March _____, 2011

RICHARD A. HONN
Judge of the State Bar Court