

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of) Case Nos.: **07-O-10366** (07-O-10821;
) 07-O-13242)
WILLIAM STEER REUSTLE,)
) **DECISION AND ORDER SEALING**
Member No. 83707,) **CERTAIN DOCUMENTS**
)
A Member of the State Bar.)

INTRODUCTION

In this original disciplinary proceeding, respondent William Steer Reustle (respondent) was accepted for participation in the State Bar Court’s Alternative Discipline Program (ADP).¹ As the court has now found that respondent has successfully completed the ADP, the court will recommend to the Supreme Court that respondent be suspended from the practice of law in California for one (1) year, that execution of that period of suspension be stayed, and that he be placed on probation for two (2) years subject to certain conditions.

PERTINENT PROCEDURAL HISTORY

The State Bar of California’s Office of the Chief Trial Counsel (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent in case nos. 07-O-10366 (07-O-10821; 07-O-

¹ The ADP was formerly known as the Program for Respondents with Substance Abuse or Mental Health Issues.

13242) on April 17, 2008. This matter was assigned to the undersigned hearing department judge.

On June 16, 2008, respondent contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his mental health issues.

The court filed an order on July 1, 2008, referring this matter to the ADP before the undersigned judge for evaluation of respondent's eligibility for participation in the State Bar Court's ADP.

Thereafter, the court filed an order on August 26, 2008, finding that respondent was not eligible for the ADP, as he failed to appear on two occasions and failed to sign a stipulation by August 25, 2008.

Following a settlement conference, the Honorable Pat McElroy, the settlement judge, filed an order on September 3, 2008, re-referring this matter to the ADP.

In furtherance of his participation in the ADP, respondent submitted a declaration to the court on September 22, 2008, which established a nexus between respondent's mental health issues and his misconduct in this matter.

On September 2, 2008, the parties entered into a Stipulation Re Facts and Conclusions of Law (Stipulation) which set forth the factual findings, legal conclusions, and aggravating circumstances in this matter. The stipulation was received by the court on September 3, 2008.

Respondent entered into a long-term Participation Plan with the LAP on October 20, 2008.

Following briefing by the State Bar,² 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

² Respondent did not submit a discipline brief to the court.

complete, or was terminated from, the ADP. After respondent agreed to the alternative possible dispositions, the court memorialized in writing these alternative dispositions in a Confidential Statement of Alternative Dispositions and Orders (Confidential Statement); respondent executed the Contract and Waiver for Participation in the State Bar Court's ADP; the court signed an order approving the parties' Stipulation; the Stipulation was filed; the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on March 2, 2009.

After respondent was accepted for participation in the ADP, respondent successfully participated in both the LAP and the State Bar Court's ADP. On September 22, 2010, after receiving a satisfactory recommendation from a mental health professional, the court filed an order finding that respondent has successfully completed the ADP.³ Respondent formally completed the ADP on September 27, 2010, and this matter was submitted for decision on that date.

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.

In case no. 07-O-10366, respondent stipulated that he: (1) intentionally, recklessly and repeatedly failed to perform legal services with competence in violation of rule 3-110(A) of the Rules of Professional Conduct of the State Bar of California⁴ by failing to appear at an Order to Show Cause hearing and by otherwise failing to perform any services of value to his client; (2) failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable

³ Although the order indicated that respondent was graduating from LAP/ADP, the court may only graduate respondent from the ADP. The court has no jurisdiction over the LAP. Accordingly, the court will require as a condition of probation that respondent comply with all the provisions and conditions of his LAP Participation Plan/Agreement.

⁴ Unless otherwise indicated, all further references to rule(s) refer to the Rules of Professional Conduct of the State Bar of California.

prejudice to his client in violation of rule 3-700(A)(2); (3) failed to keep his client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services in violation of Business and Professions Code section 6068, subdivision (m);⁵ and (4) failed to promptly refund an unearned advanced fee in violation of rule 3-700(D)(2).

With respect to case no. 07-O-10821, respondent stipulated that he: (1) failed to promptly release all client papers and property upon termination of employment as requested by his client in violation of rule 3-700(D)(1);⁶ and (2) failed to inform a client of a significant development in the client's matter in violation of section 6068, subdivision (m).

In case no. 07-O-13242, respondent stipulated that he: (1) intentionally, recklessly and repeatedly failed to perform competent legal services in violation of rule 3-110(A); and (2) failed to keep a client reasonably informed of significant developments in a matter in which he had agreed to provide legal services in violation of section 6068, subdivision (m).

Respondent also stipulated that he violated section 6068, subdivision (i) by failing to cooperate and participate in the disciplinary investigations of the matters listed above.

In aggravation, respondent has a prior record of discipline. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b)(i).)⁷ Effective January 11, 1997, respondent was privately reprimanded in case no. 93-O-14208 for violating section 6103.

In addition, respondent's misconduct evidences multiple acts of wrongdoing (std. 1.2(b)(ii)), and respondent displayed a lack of cooperation and candor to the State Bar and to the victims of his misconduct during disciplinary investigations (std. 1.2(b)(vi)).

⁵ Unless otherwise indicated, all further references to section(s) refer to provision of the California Business and Professions Code.

⁶ Although the parties stipulated to a violation of rule 3-700(D)(2), the court finds this to be in error, as rule 3-700(D)(2) refers to the obligation to return unearned fees, while rule 3-700(D)(1) refers to the obligation to promptly release to the client all client papers and property at the client's request.

⁷ All further references to standard(s) or std. are to this source.

The parties did not stipulate to any mitigating circumstances. However, it is now appropriate to consider respondent's successful completion of the ADP as a mitigating circumstance in this matter. (Std. 1.2(e)(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.)

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 the discipline recommended by the State Bar, as well as certain standards and case law. In particular, the court considered standards 1.2, 1.3, 1.4, 1.5, 1.6, 1.7(a), 2.4(b), 2.6 and 2.10 and *In the Matter of Whitehead* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354; *In the Matter of Kopinski* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 716; *In the Matter of Nunez* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196; and *In the Matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459.

Because respondent has now successfully completed the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the lower level of discipline, set forth more fully below.

DISCIPLINE

Recommended Discipline

It is hereby recommended that respondent William Steer Reustle, State Bar Number 83707, be suspended from the practice of law in California for one (1) year, that execution of

that period of suspension be stayed, and that he be placed on probation⁸ for a period of two (2) years subject to the following conditions:

- A. 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;
- B. 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;
- C. 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 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;
- D. 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 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 probation and no later than the last day of the probation period;

- E. 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;

⁸ 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.)

- F. Within one (1) 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 Ethics School, and passage of the test given at the end of that session;
- G. Respondent must comply with all provisions and conditions of his Participation Agreement/Plan with the Lawyer Assistance Program (LAP) and must provide the Office of Probation with certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of his Participation Agreement/Plan to the Office of Probation. Respondent must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and his compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory certification of completion of the LAP; and
- H. Within ninety (90) days of the effective date of the discipline herein, respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to respondent's misconduct in the current proceeding.

At the expiration of the period of probation, if William Steer Reustle has complied with all conditions of probation, the one (1) year period of stayed suspension will be satisfied and that suspension will be terminated.

Multistate Professional Responsibility Examination

It is not recommended that William Steer Reustle be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE), as he took and passed the MPRE administered in March 2010.

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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.

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 806(c) of the Rules of Procedure of the State Bar of California (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 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: December _____, 2010

LUCY ARMENDARIZ
Judge of the State Bar Court