PUBLIC MATTER

FILED
OCT 2 1 2016
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: **09-J-16022-WKM**
	)	
BENJAMIN TYLER BRANDT,	)	**DECISION**
	)	
Member No. 201506,	)	
	)	
A Member of the State Bar.	)	

kwiktag® 211 098 129

On September 18, 2009, the United States Bankruptcy Court for the Central District of California (bankruptcy court) ordered that respondent **BENJAMIN TYLER BRANDT**[1] be disciplined upon findings that he committed professional misconduct within its jurisdiction. (*In re The Disciplinary Proceeding of Benjamin B. Wasson* (Bankr. C.D.Cal., No. LA MI 09-00003).) Specifically, a bankruptcy court disciplinary hearing panel found that respondent filed a chapter 11 petition for the debtors in bankruptcy court case number 2:08-bk-27335-AA, entitled *In re Bankers of Ruptcy Hypothecaters & Wholesalers, a UBO,* (*Bankers of Ruptcy*) and almost 100 other bankruptcy petitions without being admitted to the bar of, or permitted to practice before, the United States District Court for the Central District of California (district court). Further, the disciplinary hearing panel concluded that these acts

[1] Effective January 28, 2013, respondent changed his official membership records name from "Benjamin Brandt Wasson" to "Benjamin Tyler Brandt." All the underlying bankruptcy court orders and appellate decisions refer to respondent by his former name of "Benjamin Brandt Wasson."

constituted the unauthorized practice of law in violation of Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California (Local Bankruptcy Rules), rule 2090-1(a).[2] For that misconduct, respondent was suspended from the practice of law in the bankruptcy court for a period of one year, beginning on September 18, 2009. In addition, respondent was required to seek reinstatement from the bankruptcy court after the one-year suspension had ended. Further, respondent was ordered to undertake 10 hours of continuing legal education in the area of legal ethics, and to submit written proof of completion of those hours before he could apply for reinstatement to practice before the bankruptcy court.

The Office of Chief Trial Counsel of the State Bar of California (OCTC) initiated this streamlined disciplinary proceeding against respondent when it filed the original notice of disciplinary charges (NDC) against respondent on October 18, 2011. (Cal. Bus. & Prof. Code,

---

[2] When respondent filed the petition in *Bankers of Ruptcy* and the almost 100 other bankruptcy petitions, Local Bankruptcy Rule 2090-1(a) provided:

(a) APPEARANCE BEFORE THE COURT

(1) By Attorney. Except as set forth in this Rule, appearance before the court on behalf of a person or entity may be made only by an attorney admitted to the bar of, or permitted to practice before, the district court. Attorneys appearing before the court are required to have read the F.R.B.P. and the Local Bankruptcy Rules in their entirety.

(2) Scope of Appearance. An attorney may appear before the court in a case:

(A) Only for such matters as concern the administration of the case;
(B) Only for 1 or more proceedings in the case; or
(C) For the case and all proceedings in the case.

In chapter 9, 11, 12, and 13 cases, the attorney for the debtor is presumed to appear for the case and all proceedings in the case, unless otherwise ordered by the court.

(3) Disclosure of Scope of Appearance in Chapter 7 Cases. In a chapter 7 case, the attorney for the debtor shall file a statement disclosing the scope of the attorney's appearance on the date of the entry of the Order for Relief, or, if the attorney has not been employed by such date, then no later than the date of the first appearance made by the attorney.

(4) Form of Statement. The statement required by Local Bankruptcy Rule 2090-l(a)(3) shall be on a form approved by the court and shall be signed by the debtor.

§ 6049.1;[3] Rules Proc. of Cal. State Bar, rule 5.350 et seq.) Under California section 6049.1, subdivision (a), a certified copy of a final order or judgment from another jurisdiction imposing discipline on a California attorney for professional misconduct that the attorney committed in the other jurisdiction is conclusive evidence that the attorney is also culpable of professional misconduct in California, unless (1) the attorney's culpability in the other jurisdiction would not warrant discipline in California under the laws and rules of this state in effect at the time the attorney committed the misconduct in the other jurisdiction or (2) the proceedings in the other jurisdiction lacked fundamental constitutional protection. (Cal. § 6049.1, subds. (2), (3).)

Respondent argues that the bankruptcy court disciplinary proceeding lacked fundamental constitutional protection and that the misconduct in that court would not be misconduct in California. Respondent, however, failed to present any evidence whatsoever to support his arguments. In any event, the bankruptcy court disciplinary proceeding afforded respondent all the due process to which he was entitled, and as set forth *post*, the bankruptcy court's findings of professional misconduct contains a determination that respondent is culpable of repeatedly violating Local Bankruptcy Rule 2090-1, which is *substantially identical* to a California statute that was in effect when respondent engaged in the misconduct. Thus, it is clear that respondent's misconduct in the bankruptcy court warrants the imposition of discipline in California under the laws and rules of this state in effect at the time respondent committed the misconduct. In sum, this court accepts all of the bankruptcy court's findings of misconduct as conclusive evidence of respondent's culpability in California.

Even though the bankruptcy court's findings of misconduct conclusively establish respondent's culpability in California, those findings do not establish the appropriate degree of

---

[3] Unless otherwise noted, all further California statutory references (i.e., references to California sections) are to the California Business and Professions Code.

discipline in California. Instead, this court must independently determine and recommend the appropriate level of discipline under California law just as it does in original disciplinary proceedings. (*In the Matter of Freydl* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349, 358, 362 [California "section 6049.1 is not a 'like discipline' statute but rather requires that discipline be decided anew in this state based on all relevant factors" including the California Standards for Attorney Sanctions for Professional Misconduct, which must be established by clear and convincing evidence]; *In the Matter of Kauffman* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213, 217 [under California section 6049.1, the appropriate degree of discipline is not presumed by the other jurisdiction's discipline, but is to be determined anew based on California law].)

For the reasons set forth *post*, the court concludes that the appropriate level of discipline in this state for the found misconduct is three years' stayed suspension and three years' probation on conditions, including a sixty-day period of actual suspension.

Pertinent Procedural History

As noted *ante*, OCTC filed the original NDC in this matter on October 18, 2011. Thereafter, respondent filed his response to the original NDC on January 27, 2012.

On December 14, 2011, respondent filed a motion to dismiss, to which OCTC filed an opposition on December 26, 2012. On January 4, 2012, respondent's motion to dismiss was denied, and the proceeding was abated. Thereafter, the proceeding remained abated for more than a year until March 13, 2013, when the proceeding was dismissed without prejudice on OCTC's motion.

On October 9, 2015, OCTC reopened this proceeding by filing another NDC in this proceeding. On October 28, 2015, the court sua sponte rescinded the filing of the October 9, 2015, NDC because OCTC failed to first seek and obtain leave of this court to reopen the

proceeding as required by rule 5.123(D) of the Rules of Procedure of the California State Bar because more than two years had passed since the proceeding was dismissed without prejudice.

On February 4, 2016, OCTC filed its Motion for Leave of Court to Reopen Proceedings and File a First Amended Notice of Disciplinary Charges. On February 17, 2016, respondent filed his opposition to the motion. In an order filed on March 15, 2016, the court granted OCTC's motion and ordered that the First Amended Notice of Disciplinary Charges that had been attached to OCTC's motion be filed as of March 15, 2016, and that respondent file a response to the first amended NDC within 20 days after the service of the March 15, 2016, order.

On April 4, 2016, respondent filed a petition for interlocutory review with the Review Department. On April 6, 2016, the Review Department dismissed respondent's petition pursuant to rules 5.26 and 5.150(D) of the Rules of Procedure of the California State Bar.

Respondent filed an Amended Answer to the First Amended NDC on April 11, 2016. On April 25, 2016, respondent filed a second petition for interlocutory review, which was denied by the Review Department on May 5, 2016.

Trial took place on June 1 and 8, 2016. On June 8, 2016, the parties filed a partial stipulation of facts and admission of documents, which was amended later that same day. At the conclusion of the trial, the court ordered that the parties file posttrial briefs, which they did on June 23, 2016, at which time the matter was submitted for decision. Thereafter, the court determined that OCTC had failed to comply with Rules of Procedure of the California State Bar, rule 5.351(B)(2), which required that OCTC attach, to the first amended NDC, a copy of Local Bankruptcy Rule 2090-1 that was in effect at the time of respondent's misconduct. Therefore, on September 16, 2016, the court filed an order vacating the submission of this proceeding and reopening the record to allow OCTC to provide the court with a copy of the actual rule respondent was found to have violated. On September 21, 2016, OCTC filed copies of the 2000

version and the 2008 version of Local Bankruptcy Rule 2090-1, which OCTC represents were in effect at the time respondent committed the misconduct for which he was found culpable by the bankruptcy court. Even though OCTC failed to note the differences, if any, between the 2000 and the 2008 versions of Local Bankruptcy Rule 2090-1 in its September 21, 2016, filing, the court again took the matter under submission for decision.[4]

At trial, OCTC was represented by Deputy Trial Counsel Shataka Shores-Brooks. Respondent represented himself.

Findings of Fact and Conclusions of Law

The following findings of fact are based on respondent's response to the NDC, the parties' June 8, 2016, amended, partial stipulation of facts and admission of documents, and the documentary and testimonial evidence admitted at trial, including the certified copies of the underlying bankruptcy court (1) memorandum of decision on Disciplinary Proceeding of Benjamin B. Wasson and (2) order on Disciplinary Proceeding of Benjamin B. Wasson.

Jurisdiction

Respondent was admitted to the practice of law in the State of California on June 8, 1999. Respondent has been a member of the State Bar of California since that date.

Case Number 09-J-16022-WKM

Findings of Fact

On December 10, 2008, the Office of the United States Trustee for the Central District of California filed, in *Bankers of Ruptcy*, a Notice of Application and Application for Issuance of an Order Directing Benjamin B. Wasson To Personally Appear and Show Cause Why He Should

[4] Ordinarily, the court would have dismissed the present proceeding with prejudice in light of OCTC's failure to strictly comply with California rule 5.351(B)(2). The court, however, did not dismiss this proceeding and permitted OCTC to provide the court posttrial with a copy of the omitted Local Bankruptcy Rule because respondent cited and relied on the same Local Bankruptcy Rule in his posttrial brief without providing the court with a copy of the rule that was in effect at the time of his misconduct (see Cal. Evid. Code, § 453).

Not Be Sanctioned And Referred To The Bankruptcy Court's Disciplinary Panel For Filing Bad Faith Petition On Behalf Of Debtor (FRBP 9011) (the sanctions application). One allegation in the sanctions application was that respondent was not authorized to practice law in the district court during the time that respondent had filed the chapter 11 petition in *Bankers of Ruptcy*. This sanctions application was served on respondent at his California State Bar membership records address, which was 4403 Morse Avenue, Studio City, CA 91604 (the Morse Avenue location).[5]

On December 17, 2008, an order was issued by the Honorable Alan M. Ahart, United States Bankruptcy Judge, for respondent to appear at a hearing on January 14, 2009, regarding the allegations raised in the sanctions application. The order was served on respondent at the Morse Avenue location. On January 14, 2009, respondent appeared on his own behalf at the ordered hearing.

Also, on January 14, 2009, respondent filed, in *Bankers of Ruptcy*, a Verified Ex Parte Motion and Request for Judicial Notice Under FRE 201(D) in Support of Attorney Benjamin B. Wasson Pro-Bono Not for Profit Corporate Filing Having No Bad Faith and Not Lacking Due Diligence (verified ex parte motion). In the verified ex parte motion, respondent admitted, not only that he had filed the chapter 11 petition in *Bankers of Ruptcy*, but also that he had filed the petitions in about 100 other cases in the bankruptcy court between 2001 and January 12, 2009, when he signed the verified ex parte motion. Respondent was not admitted to practice in the district court until January 22, 2009.

On January 26, 2009, respondent filed a Notice of Appeal with respect to the bankruptcy court's oral rulings at the January 14, 2009, hearing on the sanctions application. The address respondent placed on the notice of appeal was the Morse Avenue location.

---

[5] Respondent maintained the Morse Avenue location as his address on the State Bar of California membership records from February 1, 2007, until February 18, 2011.

On January 30, 2009, the bankruptcy court filed and entered its Findings of Fact and Conclusions of Law related to the sanctions application. On February 13, 2009, Bankruptcy Judge Ahart issued a Statement of Cause (Referral of Benjamin B. Wasson, per General Order 96-5) in which he referred respondent to the Board of Judges' Attorney Disciplinary Committee to determine sanctions, including recommending that respondent be suspended from practice before the bankruptcy court for a period of one year.

On May 5, 2009, the bankruptcy court served a Notice of Assignment of Hearing Panel on respondent at the Morse Avenue location. On May 21, 2009, the bankruptcy court served a Notice of Disciplinary Hearing on respondent at the Morse Avenue location. The notice indicated that respondent's disciplinary hearing would take place on June 19, 2009, at 10 a.m., in courtroom 1545 at the federal courthouse located at 255 East Temple Street, Los Angeles, California 90012.

On June 19, 2009, respondent did not appear for the scheduled disciplinary hearing, which took place before a panel of three randomly selected bankruptcy judges pursuant to the bankruptcy court's General Order 96-05. The United States Trustee appeared at the hearing and evidence was admitted into the record.

On September 18, 2009, the bankruptcy court issued an order and a memorandum of decision regarding respondent's disciplinary hearing. The order and memorandum of decision were served on respondent at the Morse Avenue location.

In its September 18, 2009, order and memorandum decision, the bankruptcy court disciplinary hearing panel found that respondent filed the petition in *Bankers of Ruptcy* and the petitions in almost 100 other bankruptcy cases in the bankruptcy court's Riverside, Los Angeles, and Ventura divisions and that respondent attended the section 341(a) meeting of creditors with his clients in the other 100 or so bankruptcy cases before respondent was admitted to practice

before the district court in repeated violation of Local Bankruptcy Rule 2090-1(a). The hearing panel's findings were clearly established, not only by the competent evidence admitted at the June 19, 2009, bankruptcy court disciplinary hearing, but they were also independently established by the admissions that respondent made in the verified ex parte motion, as set forth *ante*. The panel's September 18, 2009, order became final when respondent failed to file a notice of appeal within 10 days after the entry of the bankruptcy panel's disciplinary order on September 18, 2009, in accordance with former rule 8002(a) of the Federal Rules of Bankruptcy Procedure (former rule 8002(a)), which was in effect in September 2009. A timely filed notice of appeal is jurisdictional in bankruptcy court. (*Wiersma v. Bank of the West* (*In re Wiersma*) (9th Cir. 2007) 483 F.3d 933, 938; *Slimick v. Silva* (*In re Slimick*) (9th Cir. 1990) 928 F.2d 304, 306-309.) Even the lack of notice of entry of an order will not extend the time to file a notice of appeal more than 30 days. (See Fed. Rules Bankr. Proc., rules 8002, 9022.)

As noted *ante*, the September 18, 2009, bankruptcy panel disciplinary order specified that respondent was suspended for one year from practicing before the bankruptcy court beginning on September 19, 2009, that he was required to apply for reinstatement after the one year of suspension had ended, and that he was required to undertake and complete 10 hours of legal ethics continuing education training (in classes approved by the State Bar of California) and submit written proof of completion of the training before he could apply for reinstatement.

After OCTC filed the original NDC in this matter on October 18, 2011, respondent filed an untimely notice of appeal of the bankruptcy court disciplinary panel's September 18, 2009, disciplinary order on December 14, 2011. On March 27, 2012, the United States Bankruptcy Appellate Panel for the United States Court of Appeals for the Ninth Circuit (BAP) dismissed respondent's appeal for lack of jurisdiction because respondent's notice of appeal was late pursuant to former rule 8002(a).

On April 12, 2012, respondent filed a notice of appeal of the BAP March 27, 2012, dismissal order in the United States Court of Appeals for the Ninth Circuit (Ninth Circuit). On December 9, 2013, the Ninth Circuit affirmed the dismissal order for want of jurisdiction.

Conclusions of Law

Without question, respondent appeared as the attorney for the debtors in *Bankers of Ruptcy* in willful violation of the 2008 version of Local Bankruptcy Rule 2090-1(a)(1) and thereby engaged in the unauthorized practice of law within jurisdiction of the bankruptcy court. Likewise, respondent appeared as the attorney for the debtors in the almost 100 other bankruptcy cases in willful violation of the 2000 version of Local Bankruptcy Rule 2090-1(a)(1) and thereby engaged in the unauthorized practice of law within the jurisdiction of the bankruptcy court. Respondent's arguments to the contrary are meritless. When respondent appeared in *Bankers of Ruptcy* and when respondent prepared, signed, and filed the petitions in the almost 100 other bankruptcy cases, respondent practiced law and appeared before the bankruptcy court in willful violation of Local Bankruptcy Rule 2090-1(a)(1).[6] The fact that respondent did not physically walk into Bankruptcy Judge Ahart's courtroom or into any of the bankruptcy court's other courtrooms in Riverside, Los Angeles, or Ventura does not suggest, much less establish, otherwise.

Both the 2000 and the 2008 versions of Local Bankruptcy Rule 2090-1(a)(1) are substantially identical to California section 6125, which provides: "No person shall practice law in California unless the person is an active member of the State Bar." An attorney's violation of California section 6125 is disciplinable under California section 6068, subdivision (a). (*In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229, 236, 237; *In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 506.)

---

[6] The 2000 and 2008 versions of Local Bankruptcy Rule 2090-1(a) are identical. The text of those identical versions is set forth in footnote number 2, *ante*.

Both versions of Local Bankruptcy Rule 2090-1(a)(1) and California section 6125 restrict the practice of law within their respective jurisdictions to active members of their respective bars (i.e., member of the district court's bar and members of the State Bar of California). Thus, it is clear that respondent's repeated violations of the bankruptcy court's restriction of the practice of law before it to attorneys admitted to the bar of, or permitted to practice before, the district court warrants the imposition of discipline in California under the laws binding on California attorneys at the time respondent committed the misconduct in bankruptcy court.

Respondent's purported reliance on what he refers to as Local Bankruptcy Rule *exceptions* in 2090-1(a)(3) and (5) to represent debtors in chapter 7 cases without being admitted to the bar of the district court is also meritless. In his posttrial brief, respondent cites and quotes Local Bankruptcy Rule 2090-1(a). Then, respondent asserts that "Pursuant to Local Bankruptcy Rule exceptions 2090-1(a)(3) and (5), I was at all times protected by the Limited Scope Appearances I filed in the Chapter 7 bankruptcy petitions and proceedings, with the one exception being the Bankers of Ruptcy filing." Respondent's contention is, at best, disingenuous. First, there is no exception to the admission requirement in Local Bankruptcy Rule 2090-1(a) for attorneys making limited scope appearance under Local Bankruptcy Rule 2090-1(a)(3) or (5). Any mistaken belief to the contrary, even if honestly held, would be unreasonable and frivolous. The only exceptions to the admission requirement in Local Bankruptcy Rule 2090-1(a)(1) are for attorneys appearing pro hac vice, attorneys employed by or representing the United States, and certified law students under Local Bankruptcy Rule 2090-1(b), (c), and (h), respectively.

Second, and more importantly, the version of Local Bankruptcy Rule 2090-1(a) that respondent quotes in his posttrial brief, and upon which he purportedly relied in filing the petitions in the almost 100 other bankruptcy cases, is the *current* version of Local Bankruptcy

Rule 2090-1(a), which is significantly different from the versions of Local Bankruptcy Rule 2090-1 that were in effect at the time of respondent's misconduct. In addition, the current version that respondent cites and quotes was not adopted until sometime after 2011 (i.e., years after respondent's misconduct).

Finally, the court rejects, for want of merit, respondent's remaining contentions. As respondent aptly notes in his posttrial brief, OCTC inaptly cited to State Bar Rules of Professional Conduct, rule 1-300(B) in the first amended NDC. OCTC should have cited to California section 6125. The court does not condone such imprecise pleading. Nonetheless, OCTC's inapt cite to California rule 1-300(B) and failure to cite to California section 6125 did not result in any depravation of due process or any other constitutional or harmful error.

Aggravation & Mitigation[7]

Aggravation and mitigation must be established by clear and convincing evidence. (Stds. 1.5, 1.6.) Because OCTC failed to establish that the bankruptcy court's findings were made under the clear-and-convincing evidentiary standard, the only aggravating and mitigating findings the court can make are those that are established by clear and convincing evidence admitted during trial on June 1 and 8, 2016. (*In the Matter of Freydl, supra*, 4 Cal. State Bar Ct. Rptr. at pp. 358-359.)

Multiple Acts Aggravation (Std. 1.5(b).)

Respondent's misconduct in the bankruptcy court evidences a very large number of acts of misconduct, but does not establish that respondent engaged in a pattern of misconduct under California law. "[T]o be considered pattern-of-misconduct aggravation, an attorney's misconduct must ordinarily include not only the type of serious misconduct found against respondent in this

[7] All references to standards are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

proceeding, but it must also span over an extended period of time. [Citation.]" (*In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555.)

Lack of Client Harm (Std. 1.6(c).)

Respondent is entitled to mitigation because his misconduct did not result in any significant client harm.

Good Character Mitigation (Std. 1.6(f).)

Respondent is entitled to some mitigation for his good character as established by the 14 letters of recommendation he proffered into evidence, even though the letters contain repetitive general statements and do not disclose that the authors are fully aware of the extent of respondent's misconduct.

Candor/Cooperation with State Bar (Std. 1.6(e).)

Respondent is entitled to limited mitigation for entering into the partial stipulation of facts with OCTC.

Discussion

The purpose of disciplinary proceedings is not to punish the attorney, but to protect the public, the courts, and the legal profession; to preserve public confidence in the profession; and to maintain the highest possible professional standards for attorneys. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025.) In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Second, the court looks to decisional law for further guidance. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

"The imposition of attorney discipline does not issue from a fixed formula but from a balanced consideration of all relevant factors, including aggravating and mitigating circumstances." (*Rodgers v. State Bar* (1989) 48 Cal.3d 300, 316.) Furthermore, it is well-established that even purported mandatory standards can be tempered by "considerations peculiar to the offense and the offender." (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-221; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.)

In its determination of the appropriate standard to apply, the court recognizes that no specific standard exists which applies where an attorney practices law in a foreign jurisdiction, yet does not have a license to practice in that jurisdiction. However, the court views standard 2.10 as the most applicable standard to apply for respondent's misconduct. Standard 2.10 provides:

2.10 UNAUTHORIZED PRACTICE OF LAW

(a) Disbarment or actual suspension is the presumed sanction when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on actual suspension for disciplinary reasons or involuntary inactive enrollment under Business and Professions Code section 6007(b)-(e). The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.

(b) Suspension or reproval is the presumed sanction when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on inactive status or actual suspension for non-disciplinary reasons, such as non-payment of fees or MCLE non-compliance. The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law.

Between subdivisions (a) and (b), the court finds it most appropriate to apply subdivision (b) because respondent did not engage in the unauthorized practice of law while he was suspended for disciplinary reasons. Like the inactive status or non-disciplinary suspension in subdivision (b), respondent would have been allowed to practice in the United States District Court for the Central District of California by simply complying with the appropriate administrative rules for admission to practice.

The court further finds *In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229 to be instructive on the issue of discipline. In that case, the attorney was placed on two years' stayed suspension and two years' probation on conditions, including a thirty-day period of actual suspension because, in a single client matter, he engaged in the unauthorized practice of law first while he was suspended for the nonpayment of his State Bar membership fees and then later while he was suspended for disciplinary reasons. In aggravation, the attorney in *Trousil* had three prior records of discipline. In mitigation, there was no significant client harm, the attorney cooperated with the State Bar, the attorney suffered from emotional difficulties, and the attorney did not engage in any additional misconduct for six years after misconduct.

While respondent does not have three prior records of disciple, he did engage in the unauthorized practice of law in 100 client matters as opposed to a single client matter. On balance, the court concludes that discipline somewhat greater than that issued in *Trousil* is, in light of all the relevant factors, the appropriate level of discipline for the found misconduct in this matter. Therefore, the court will recommend three years' stayed suspension and three years' probation on conditions, including a sixty-day period of actual suspension.

Recommendations

Discipline

The court recommends that respondent **BENJAMIN TYLER BRANDT, State Bar number 201506,** be suspended from the practice of law in the State of California for three years, that execution of the three-year suspension be stayed, and that he be placed on probation for three years[8] on the following conditions:

---

[8] The probation period will commence on the effective date of the Supreme Court order in this matter. (See Cal. Rules of Court, rule 9.18.)

1. Respondent Benjamin Tyler Brandt is suspended from the practice of law for the first sixty days of probation.

2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.

3. Within 30 days after the effective date of the Supreme Court order in this matter, 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. Respondent must promptly meet with the probation deputy as directed and upon request.

4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.

5. Respondent must submit written quarterly reports to the Office of Probation no later than January 10, April 10, July 10, and October 10 each year. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.

6. Within one year after the effective date of the Supreme Court order in this proceeding, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School and passage of the test given at the end of that session.

7. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.

8. At the expiration of the period of probation, if respondent has complied with all conditions of probation, the three-year stayed suspension will be satisfied and that suspension will be terminated.

Professional Responsibility Examination

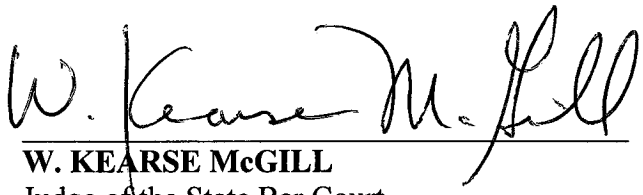
The court further recommends that respondent be ordered to take and pass the Multistate Professional Responsibility Examination within one year after the effective date of the Supreme

Court order in this matter and to provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

Costs

Finally, the court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: October 21, 2016



W. KEARSE McGILL
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 21, 2016, I deposited a true copy of the following document(s):

DECISION

in a sealed envelope for collection and mailing on that date as follows:

☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

BENJAMIN T. BRANDT
2727 DE ANZA RD SPC SD13
SAN DIEGO, CA 92109 - 6861

☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Shataka A. Shores-Brooks, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 21, 2016.

Julieta E. Gonzales
Case Administrator
State Bar Court