

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of) Case No.: 10-PM-09752-DFM
)
RONALD GRADY FINCH)
) DECISION
)
Member No. 70822)
)
A Member of the State Bar.)

INTRODUCTION

The Office of Probation, represented by Terrie Goldade, filed a motion pursuant to Business and Professions Code sections 6093, subdivision (b) and 6093, subdivision (c)¹ and rules 560 et seq. of the Rules Proc. of State Bar² to revoke the probation of Respondent Ronald Grady Finch (Respondent). Respondent did not participate in this proceeding although he was properly served with the motion by certified mail, return receipt requested, at his State Bar membership records address.

For the reasons stated below, the court finds by a preponderance of the evidence that Respondent willfully failed to comply with the terms of his probation. (Section 6093, subd. (c).) As a result, the court grants the motion of the Office of Probation to revoke Respondent’s probation and its request to involuntarily enroll him as an inactive member of the State Bar pursuant to section 6007, subdivision (d). The court recommends that Respondent’s probation

¹Future references to section(s) are to this source.

²Future references to rule are to this source.

be revoked, that the previously-ordered stay of suspension be lifted and that Respondent be actually suspended from the practice of law for one year.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Jurisdiction

Respondent was admitted to the practice of law in California on December 22, 1976, and has been a member of the State Bar at all times since.

Probation Violations

On January 21, 2009, the State Bar Court filed an order approving the stipulation of the parties in State Bar Court case no. 08-J-13191 and recommending discipline consisting of one year's stayed suspension and two years' probation, among other things. A copy of the stipulation and the State Bar Court's order approving same were properly served upon Respondent on that same date at his State Bar membership records address by first-class mail, postage prepaid.

On August 19, 2009, the California Supreme Court filed an order, S173482, accepting the State Bar Court's discipline recommendation and ordering Respondent to comply, inter alia, with the following conditions of probation:

(a) During the period of probation, Respondent was required to submit a written report to the Office of Probation on January 10, April 10, July 10 and October 10 of each year, or part thereof, during which the probation is in effect, stating under penalty of perjury that he has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period (quarterly report).

(b) Since Respondent lives in Arizona, Respondent was required to successfully complete either the Ethics School offered by the State Bar of California or the Arizona State Bar's Ethics Enhancement Program and submit proof thereof to the Office of Probation within one year of the effective date of discipline (by September 17, 2010).

The Supreme Court order became effective on September 17, 2009, thirty days after it was entered. (Rule 9.18(a), California Rules of Court.) It was properly served on Respondent.³

On August 27, 2009, the Office of Probation wrote a letter to Respondent, properly sent to him at his then-official address, reminding him of certain terms and conditions of his suspension and the probation imposed pursuant to the Supreme Court's order and enclosing, among other things, copies of the Supreme Court's order, the probation conditions portion of the stipulation, instruction sheets or forms to use in submitting quarterly reports, as well as scheduling and enrollment information for Ethics School. The letter also indicated that, if Respondent elected to take the Arizona ethics program, he would have to contact that organization directly for information and registration.

Respondent did not comply with the conditions of probation as set forth above but instead willfully violated the conditions of probation regarding quarterly reports and the providing of proof of successful completion of one of the designated ethics programs, as ordered by the Supreme Court in S173482. (Section 6093, subdivisions (b) and (c); rule 561.) Respondent did not timely submit the quarterly reports due on the 10th of January, April and July 2010 and did not submit at all the report due on October 10, 2010. In addition, no proof of successful completion of either the State Bar's Ethics School or the comparable Arizona ethics course has been submitted to the Office of Probation.

Aggravating Circumstances

Prior Discipline

In aggravation, Respondent has one prior record of discipline. (Std. 1.2(b)(i).) In S173482, Respondent and the State Bar stipulated to culpability in one client matter of violations

³Although no proof was offered that the Clerk of the Supreme Court served the Supreme Court's order upon Respondent, rule 8.532(a) of the California Rules of Court requires clerks of reviewing courts to immediately transmit a copy of all decisions of those courts to the parties upon filing. It is presumed pursuant to Evidence Code section 664 that official duties have been regularly performed. (*In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.) Therefore, in the absence of evidence to the contrary, this court finds that the Clerk of the Supreme Court performed his duty and transmitted a copy of the Supreme Court's order to Respondent immediately after its filing.

of rule 3-110(A) of the Rules of Professional Conduct and section 6068(o)(6). In aggravation, the parties stipulated to one prior disciplinary matter in Arizona. Mitigating factors at that time included self-reporting misconduct to the Arizona State Bar; attempting to rectify the consequences of his misconduct; and cooperation with the State Bars of California and Arizona.

Multiple Acts of Misconduct

Respondent engaged in multiple acts of misconduct. (Std. 1.2(b)(ii).)

Indifference

Further, Respondent's failure to comply with the probation conditions, after being reminded by Office of Probation, demonstrates indifference toward rectification of or atonement for the consequences of his misconduct. (Std. 1.2(b)(v).) In addition, he has failed to participate in the instant proceeding, a source of considerable concern to this court.

Mitigating Circumstances

It is Respondent's burden to establish mitigating factors, but he did not participate in this proceeding. Accordingly, no mitigating factors are found.

DISCUSSION

Section 6093 authorizes the revocation of probation for a violation of a probation condition, and standard 1.7 requires that the court recommend a greater discipline in this matter than that imposed in the underlying disciplinary proceeding, but any actual suspension cannot exceed the period of stayed suspension imposed in the underlying proceeding. (Rule 562.) The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violation and Respondent's recognition of his misconduct and his efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.)

The court agrees with the Office of Probation's request that Respondent be actually suspended for the full amount of stayed suspension. Respondent was aware of the terms and conditions of his disciplinary probation, yet failed to comply with them despite reminders from Office of Probation.

RECOMMENDED DISCIPLINE

Actual Suspension

The court recommends that the probation of Respondent **Ronald Grady Finch**, Member No. 70822, previously ordered in Supreme Court case matter S173482 (State Bar Court case no. 08-J-13191), be revoked; that the previous stay of execution of the suspension be lifted, and that Respondent be actually suspended for one year.

Probation

It is further recommended that Respondent be placed on probation for two years on the following conditions:

1. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all the conditions of this probation.
2. Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar, 180 Howard Street, San Francisco, California, 94105-1639, and to the State Bar Office of Probation, all changes of information, including current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;
3. Respondent must submit written quarterly reports to the State Bar 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 he has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the first report will cover less than thirty (30) days, that report must be submitted on the next following 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 probation period and no later than the last day of the probation period;

4. Subject to the assertion of applicable privileges, Respondent must answer fully, promptly, and truthfully, any inquiries of the State Bar Office of Probation which are directed to Respondent personally or in writing, relating to whether Respondent is complying or has complied with the conditions contained herein;

5. Within one year of the effective date of the discipline herein, Respondent must provide to the State Bar Office of Probation satisfactory proof of attendance at a session of the Ethics School, given periodically by the State Bar at either 180 Howard Street, San Francisco, California, 94105-1639, or 1149 South Hill Street, Los Angeles, California, 90015-2299, and passage of the test given at the end of that session. Arrangements to attend Ethics School must be made in advance by calling (213) 765-1287, and paying the required fee. This requirement is separate from any Minimum Continuing Legal Education Requirement (MCLE), and Respondent will not receive MCLE credit for attending Ethics School (Rule 3201, Rules of Procedure of the State Bar.) session. Since Respondent resides outside of California, Respondent could elect instead to attend the Arizona State Bar Ethics Enhancement Program and provide the Office of Probation satisfactory proof of attendance and passage of any test given in conjunction with the program, within one year of the effective date of his discipline;

The period of probation will commence on the effective date of the order of the Supreme Court imposing discipline in this matter.

Rule 9.20, California Rules of Court

It is also recommended that the Supreme Court order Respondent to comply with rule 9.20(a) of the California Rules of Court within 30 calendar days after the effective date of the Supreme Court order in the present proceeding and to file the affidavit provided for in rule

9.20(c) within 40 calendar days after the effective date of the order showing Respondent's compliance with said order.⁴

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.

ORDER REGARDING INACTIVE ENROLLMENT

It is hereby ORDERED that Respondent **Ronald Grady Finch** be involuntarily enrolled as an inactive member of the State Bar of California pursuant to Business and Professions Code section 6007, subdivision (d). This enrollment shall be effective three days following service of this order. The requirements of section 6007, subdivision (d)(1) have been met: Respondent was subject to a stayed suspension, was found to have violated probation conditions, and it has been recommended that Respondent be actually suspended due to said violations.

It is also ordered that his inactive enrollment be terminated as provided by Business and Professions Code section 6007, subdivision (d)(2).

It is recommended that Respondent's actual suspension in this matter commence as of the date of his inactive enrollment pursuant to this order. (Bus. & Prof. Code, § 6007, subd. (d)(3).)

Dated: January _____, 2011

DONALD F. MILES
Judge of the State Bar Court

⁴Respondent is required to file a rule 9.20(c) affidavit even if he has no clients. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 130.)