STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **JOHN DOUGLASS JENNINGS, JR.,** **Member No. 52504,** A Member of the State Bar.	Case No.: **11-O-12527-LMA** **DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

Introduction[1]

In this disciplinary proceeding, respondent John Douglass Jennings, Jr., is charged with ten counts of misconduct in a single client matter. This case involves a series of business transactions between Respondent and his client, totaling more than $1.4 million. Counts One through Nine allege violations of rule 3-300 [improper business transactions with a client], and Count Ten alleges a violation of rule 3-110(A) [failure to perform legal services with competence].

This court finds, by clear and convincing evidence, that Respondent is culpable on all ten counts of misconduct. Based on the nature and extent of culpability, as well as the applicable aggravating and mitigating circumstances, in conjunction with meeting the goals of attorney discipline, the court recommends, among other things, that Respondent be disbarred.

[1] Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

Significant Procedural History

The Office of the Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on March 26, 2015. Respondent filed a response to the NDC on April 17, 2015.

The parties filed a partial stipulation of facts on July 23, 2015. A two-day trial was held on July 28 and 29, 2015. The State Bar was represented by Senior Trial Counsel Anthony Garcia and Deputy Trial Counsel Drew Massey. Ellen Pansky and Donald Tremblay represented Respondent. The court took this matter under submission for decision on July 29, 2015.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on June 2, 1972, and has been a member of the State Bar of California at all times since that date.

Facts

In 2004, 78-year-old Samuel Robinson retained Respondent to provide legal advice in the areas of estate planning and tax/asset protection. Mr. Robinson was a musician who inherited most of his wealth from his family. (See Exh. 29, p. 59.) Respondent learned that Mr. Robinson had not filed an income tax return since the early 1990's.[2] Mr. Robinson remained Respondent's client for approximately five years, and during this time period Mr. Robinson was in the hospital and care facilities on multiple occasions.[3] (See Exh. 29, p. 158.) In August 2009, Mr. Robinson terminated Respondent's services. Mr. Robinson died approximately four years later, in May 2013.

---

[2] Respondent repeatedly asserted that Mr. Robinson was a "sophisticated investor" with a net worth of $10-15 million dollars. Respondent's assertions were not supported by any credible evidence and were contradicted by Mr. Robinson's willingness to enter into the present "investments" without collateral, default terms, or written agreements (as illustrated below), as well as the fact that Mr. Robinson had not filed taxes since the early 1990's.

[3] Mr. Robinson executed a General Power of Attorney in favor of Respondent on July 24, 2006.

During all relevant time periods, Respondent was the president, owner, and sole controller of La Jolla Equities, Inc. (La Jolla Equities). La Jolla Equities managed, administered, and controlled a limited liability company entitled Investments of Jackson Hole, LLC.

La Jolla Equities was also the general partner of La Jolla Equities Income Fund I, L.P. (La Jolla Equities Income Fund). Respondent was a limited partner of La Jolla Equities Income Fund, but had full control over all funds transferred to La Jolla Equities Income Fund. The purpose of La Jolla Equities Income Fund was to acquire funds which would then be transferred to other entities including Investments of Jackson Hole, LLC, and Tradewinds Development (a real estate firm owned by Respondent's wife). The funds would also be used to pay Respondent's personal and business expenses.[4]

In 2005, Mr. Robinson inherited approximately three million dollars. The entire sum was deposited into Respondent's client trust account. In May 2005, Respondent began entering into a series of business transactions with Mr. Robinson.

The Jackson Hole Transaction

On May 13, 2005, Respondent entered into his first business transaction with Mr. Robinson. Specifically, Mr. Robinson agreed to invest $500,000 into Investments of Jackson Hole, LLC.

Respondent and Mr. Robinson signed a Subscription Agreement on May 16, 2005 (Subscription Agreement #1). (See Exh. 20.) Under the terms of Subscription Agreement #1, Mr. Robinson agreed to purchase 50 "membership units" of Investments of Jackson Hole, LLC, for $500,000. Respondent was given wide and unilateral control over how money invested into Investments of Jackson Hole, LLC, was to be utilized.

---

[4] No "operating agreement" exists for La Jolla Equities Income Fund.

In general, the purpose of Mr. Robinson's investment was to buy properties in Jackson Hole, Teton County, Wyoming. The properties would then be improved and sold after a five-year period. Respondent and his wife purchased approximately eleven Jackson Hole properties. When the Jackson Hole properties were purchased, Respondent and his wife bought the properties as individuals and took title in their own names. Thereafter, Respondent and his wife quitclaimed the deeds to Investments of Jackson Hole, LLC; however all but one of the quitclaim deeds were never recorded.[5]

Respondent provided Mr. Robinson with a prospectus regarding the Investments of Jackson Hole, LLC. The Investments of Jackson Hole, LLC, prospectus indicated that the company would acquire, subdivide, and sell several properties totaling approximately $10 million. The prospectus also stated that the Investments of Jackson Hole, LLC, was going to require capitalization of $5 million. It is unclear whether the Investments of Jackson Hole, LLC, actually raised $5 million in investor capital.

The prospectus did not contain several material terms. For instance, the prospectus did not state that the Jackson Hole properties would be acquired in the names of Respondent and his wife. The prospectus also did not inform investors that the Jackson Hole properties would be encumbered by mortgages in Respondent's and his wife's names. In addition, the prospectus did not indicate that the Jackson Hole properties would be quitclaimed to the Investments of Jackson Hole, LLC. And finally, there was no indication in the prospectus that the quitclaims would not be recorded.

[5] A typical mortgage contains a due-on-sale clause that effectively restricts transfer without the mortgagee's prior written consent. The court does not accept Respondent's unsupported assertion that the Wyoming properties were immediately transferred when the quitclaim deeds were signed and notarized. And even if that were the case, there is no credible evidence that Mr. Robinson was made aware of the quitclaim deeds.

On May 16, 2005, Mr. Robinson signed a document entitled "Consent to Transaction." (See Exh. 1020.) In this document, Mr. Robinson affirmed his belief that the Jackson Hole transaction was fair. He also acknowledged that he was advised of his right to seek the advice of independent counsel. However, as noted above, Mr. Robinson was not fully informed of the terms of the Jackson Hole transaction.

The May 18, 2005 Loan for $500,000 to La Jolla Equities Income Fund

On or about the same time as the Jackson Hole transaction, Respondent entered into a second business transaction with Mr. Robinson. On May 18, 2005, Mr. Robinson loaned $500,000 to La Jolla Equities Income Fund (the May 18, 2005 transaction).[6] In exchange for the $500,000 loan to La Jolla Equities Income Fund, Mr. Robinson was to receive a return of six percent interest with payments made to him quarterly from La Jolla Equities Income Fund. According to Respondent, this loan was for a minimum of five years; however, Respondent's subsequent amortization table extended to the year 2024, with no principal being paid until September 30, 2024, when a lump sum of the entire $500,000 principal was due.[7] (See Exhibit 15.)

On or about May 18, 2005, Respondent and Mr. Robinson signed an agreement titled, "Subscription Agreement for Units of Membership in La Jolla Equities Income Fund I, L.P." (Subscription Agreement #2). (See Exhibit 6.) Subscription Agreement #2 refers to the "Purchase and Issue of Units of Membership." Specifically, Subscription Agreement #2 stated that Mr. Robinson was purchasing 50 units of membership in La Jolla Equities Income Fund.

Contrary to the clear language of Subscription Agreement #2, no "units of membership" were ever transferred to Mr. Robinson and the May 18, 2005 transaction was merely a loan.

[6] Despite extensive credible evidence to the contrary, Respondent repeatedly classified this transaction, and the eight subsequent loan transactions, as "investments," rather than loans.

[7] Had he not passed away in 2013, Mr. Robinson would have been 98 years old in 2024.

Subscription Agreement #2 did not state that quarterly interest payments at the rate of six percent would be made, nor did it state that the term of the transaction would be for five years or more. The agreement was also silent as to what would occur in the event of default.

Respondent did not provide any collateral to Mr. Robinson for the loan. Respondent did not sign a promissory note for the transaction. In addition, Respondent did not fully disclose the terms of the transaction to Mr. Robinson in writing. Once Mr. Robinson's $500,000 was transferred to La Jolla Equities Income Fund, Respondent did not thereafter advise Mr. Robinson of each individual disbursement of funds or for what purposes the funds were disbursed. Respondent also did not advise Mr. Robinson in writing that he may seek the advice of an independent lawyer.[8]

Respondent knew that Subscription Agreement #2, as well as all subsequent subscription agreements signed by Mr. Robinson, did not reflect the true nature of the transaction. Respondent signed Subscription Agreement #2 and allowed Mr. Robinson to sign it, knowing that it misrepresented the terms of the May 18, 2005 transaction.[9]

The March 3, 2008 Loan for $60,000 to La Jolla Equities Income Fund

On March 3, 2008, Respondent entered into a third business transaction with Mr. Robinson. Mr. Robinson loaned an additional $60,000 to La Jolla Equities Income Fund (the March 3, 2008 transaction). The nature of the March 3, 2008 transaction was the same as the May 18, 2005 transaction, and La Jolla Equities Income Fund agreed to pay Mr. Robinson six percent interest to be paid in quarterly payments. The term was for five years.

[8] Respondent's assertion that he gave the State Bar a copy of the conflict waiver from the May 18, 2005 transaction was not credible.

[9] Respondent's testimony that he did not know that Subscription Agreement #2 misrepresented the true agreement when he signed it was not credible. Respondent's office prepared the agreement, and Respondent was a savvy and experienced attorney and businessman.

On March 3, 2008, Mr. Robinson and Respondent signed another document titled, "Subscription Agreement For Units of Membership in La Jolla Equities Income Fund I, L.P." (Subscription Agreement #3). (Exh. 10.) Specifically, Subscription Agreement #3 stated that Mr. Robinson was purchasing 6 units of membership in La Jolla Equities Income Fund. Despite the language of Subscription Agreement #3, no "units of membership" were ever transferred to Mr. Robinson.

The March 3, 2008 transaction was not fully disclosed to Mr. Robinson in writing. Subscription Agreement #3 does not state that quarterly interest payments at the rate of six percent would be made, nor does it state that the term of the transaction would be for five years. The agreement was silent as to what would happen in the event of default. Respondent also did not advise Mr. Robinson in writing that he may seek the advice of an independent lawyer.

Respondent did not provide any collateral to Mr. Robinson for the loan. Respondent also did not sign a promissory note for the March 3, 2008 transaction. Respondent signed Subscription Agreement #3, knowing that it misrepresented the terms of the March 3, 2008 transaction.

The May 21, 2008 Loan for $90,000 to La Jolla Equities Income Fund

Approximately two months later, Respondent entered into a fourth business transaction with Mr. Robinson. On May 21, 2008, Mr. Robinson transferred an additional $90,000 to La Jolla Equities Income Fund (the May 21, 2008 transaction). The nature of the May 21, 2008 transaction was the same as the May 18, 2005 transaction. Specifically, Mr. Robinson transferred money to La Jolla Equities Income Fund, for which he would receive six percent interest and quarterly payments. The term was for five years.

The May 21, 2008 transaction was not memorialized by any writing. Respondent did not provide any collateral to Mr. Robinson for the loan. Mr. Robinson did not sign a written consent to the terms of the May 21, 2008 transaction, and there was no written agreement regarding what would happen in the event of default. Respondent also did not sign a promissory note for the transaction. Nor did Respondent advise Mr. Robinson in writing that he may seek the advice of an independent lawyer.

The July 10, 2008 Loan for $100,000 to La Jolla Equities Income Fund

Less than two months later, Respondent entered into a fifth business transaction with Mr. Robinson. On July 10, 2008, Mr. Robinson transferred $100,000 to La Jolla Equities Income Fund (the July 10, 2008 transaction). The nature of the July 10, 2008 transaction was the same as the May 18, 2005 transaction. Specifically, Mr. Robinson transferred money to La Jolla Equities Income Fund, for which he would receive six percent interest and quarterly payments. The term was for five years.

The July 10, 2008 transaction was not memorialized by any written agreement. Again, Respondent did not provide any collateral to Mr. Robinson for the loan. Respondent did not sign a promissory note for the transaction. Mr. Robinson did not sign a written consent to the terms of the July 10, 2008 transaction. There was also no written agreement regarding what would happen in the event of default. In addition, Respondent did not advise Mr. Robinson in writing that he may seek the advice of an independent lawyer.

The July 25, 2008 Loan for $40,000 to La Jolla Equities Income Fund

Approximately two weeks later, Respondent entered into a sixth business transaction with Mr. Robinson. On July 25, 2008, Mr. Robinson transferred $40,000 to La Jolla Equities Income Fund (the July 25, 2008 transaction). The nature of the July 25, 2008 transaction was the same as the May 18, 2005 transaction. Specifically, Mr. Robinson transferred money to La Jolla Equities Income Fund for which he would receive six percent interest and quarterly payments. The term was five years.

The July 25, 2008 transaction was not memorialized by any written agreement. Respondent did not provide any collateral to Mr. Robinson for the loan. Respondent also did not sign a promissory note for the transaction. There was no written agreement regarding what would happen in the event of default. Mr. Robinson also did not sign a written consent to the terms of the July 25, 2008 transaction. In addition, Respondent did not advise Mr. Robinson in writing that he may seek the advice of an independent lawyer.

The August 12, 2008 Loan for $40,000 to Tradewinds Development

Approximately three weeks later, Respondent entered into a seventh business transaction with Mr. Robinson. On August 12, 2008, Mr. Robinson transferred $40,000 which was paid directly to Tradewinds Development (the August 12, 2008 transaction). Tradewinds Development was a real estate investment company owned by Respondent's wife, Peggy Jennings. Ms. Jennings was also the president of Tradewinds Development.

The August 12, 2008 transaction did not go through La Jolla Equities Income Fund, but was instead a direct payment to Tradewinds Development. The August 12, 2008 transaction was not memorialized by any written agreement. Respondent did not provide any collateral to Mr. Robinson for the loan. Respondent also did not sign a promissory note for the transaction. There was no written agreement regarding what would happen in the event of default. Mr. Robinson did not sign a written consent to the terms of the August 12, 2008 transaction. Respondent also did not advise Mr. Robinson in writing that he may seek the advice of an independent lawyer.

The December 9, 2008 Loan for $50,000 to Tradewinds Development

Four months later, Respondent entered into an eighth business transaction with Mr. Robinson. On December 9, 2008, Mr. Robinson transferred $50,000 to Tradewinds Development (the December 9, 2008 transaction). The December 9, 2008 transaction was not memorialized by any written agreement. Respondent did not provide any collateral to Mr. Robinson for the loan. Respondent did not sign a promissory note for the December 9, 2008 transaction. Again, there was no written agreement regarding what would happen in the event of default. Mr. Robinson did not sign a written consent to the terms of the December 9, 2008 transaction. Respondent also did not advise Mr. Robinson in writing that he may seek the advice of an independent lawyer.

The December 31, 2008 Loan for $40,000 to La Jolla Equities Income Fund

Approximately three weeks later, Respondent entered into a ninth business transaction with Mr. Robinson. On December 31, 2008, Mr. Robinson transferred $40,000 to La Jolla Equities Income Fund (the December 31, 2008 transaction).

The nature of the December 31, 2008 transaction was the same as the May 18, 2005 transaction. Specifically, Mr. Robinson transferred money to La Jolla Equities Income Fund, for which he would receive six percent interest and quarterly payments. The December 31, 2008 transaction was not memorialized by any written agreement. Respondent did not provide any collateral to Mr. Robinson for the loan. Respondent did not sign a promissory note and there was no written agreement regarding what would happen in the event of default. Mr. Robinson did not sign a written consent to the terms of the December 31, 2008 transaction. Respondent also did not advise Mr. Robinson in writing that he may seek the advice of an independent lawyer.

The Investments of Jackson Hole Failure and Resulting Fallout

Respondent made quarterly interest payments on the above-mentioned loans from 2005 to on or about 2009.[10] In or about 2008, however, the Investments of Jackson Hole, LLC, failed.

[10] These payments were interest only. No principal was paid off.

Respondent blames the failure on the economy and the acquisition of too much debt. Respondent and his entities defaulted on his loans. Respondent personally declared bankruptcy.

By 2010, the money invested in La Jolla Equities Income Fund was "gone." (Exh. 29, p. 174.) Mr. Robinson's $1,420,000 in investments/loans to Respondent and his entities was also gone. As a result, Mr. Robinson sued Respondent in the San Diego County Superior Court. In 2011, Respondent's malpractice insurance carrier paid Mr. Robinson approximately $1.7 million dollars.

Conclusions

Count One – Rule 3-300 [Avoiding Interests Adverse to a Client]

Rule 3-300 provides that an attorney must not enter into a business transaction with a client or knowingly acquire an ownership, security, possessory, or other pecuniary interest adverse to a client unless: (1) the transaction/acquisition and its terms are reasonable and fair to the client and are fully disclosed and transmitted in writing to the client in a reasonably understandable manner; (2) the client is advised in writing that the client may seek the advice of an independent lawyer of the client's choice and is given a reasonable opportunity to do so; and (3) the client thereafter consents in writing to the terms of the transaction/acquisition. The burden is on the attorney to demonstrate that the dealings with the client were fair and reasonable. (*Hunniecutt v. State Bar* (1988) 44 Cal.3d 362, 372–373.)

In Count One, the State Bar alleged that Respondent violated rule 3-300 by entering into the May 16, 2005 Jackson Hole business transaction with a client where the terms of the agreement were not fair, reasonable, and fully disclosed in writing. The court agrees.

Respondent's professional-looking prospectus clearly stated multiple times that the Jackson Hole properties would be acquired by the Investments of Jackson Hole, LLC. Nowhere was it disclosed that the properties would actually be acquired and kept in the names of

Respondent and his wife. It was further not disclosed that the mortgages obtained to acquire the various Jackson Hole properties would also be in Respondent's and his wife's names. Nor was it disclosed that the properties would be quitclaimed to the Investments of Jackson Hole, LLC, and not recorded. Had investors actually known that their money would be used to purchase and maintain property in Respondent's name, it's unlikely that they would have invested. This court concludes that Respondent, who failed to disclose significant terms of this transaction, has not met his burden of demonstrating that the May 16, 2005 Jackson Hole transaction was fair and reasonable to his client.

Further, this court does not find that Mr. Robinson provided valid written consent. One of the fundamental rules of contracts is that there must be a meeting of the minds. The terms of the transaction provided in the prospectus and Subscription Agreement #1 did not accurately reflect the actual terms of the transaction. Consequently, Mr. Robinson could not knowingly consent to the transaction.

By entering into the May 16, 2005 Jackson Hole business transaction with Mr. Robinson, Respondent entered into a business transaction, with a client, that was not fair, reasonable, and fully disclosed in writing, in willful violation of rule 3-300.

Count Two – Rule 3-300 [Avoiding Interests Adverse to a Client]

Count Two pertains to Respondent's May 18, 2005 business transaction with his client, Mr. Robinson. In this transaction, Mr. Robinson loaned $500,000 to the La Jolla Equities Fund. The terms of this transaction were not reasonable or fair to the client, as there was no collateral, promissory note, or default terms. Also, the terms of the transaction were not fully disclosed and transmitted in writing to the client in a reasonably understandable manner. In addition, the client was not advised in writing that he may seek the advice of an independent lawyer. Further, the client did not consent in writing to the terms of the transaction/acquisition.[11] Accordingly, it has been established that Respondent's May 18, 2005 business transaction with Mr. Robinson involving a $500,000 loan to the La Jolla Equities Fund constituted a willful violation of rule 3-300.

Count Three – Rule 3-300 [Avoiding Interests Adverse to a Client]

Count Three relates to Respondent's March 3, 2008 business transaction with his client, Mr. Robinson. In this transaction, Mr. Robinson loaned $60,000 to the La Jolla Equities Fund. The terms of this transaction were not reasonable or fair to the client, as there was no collateral, promissory note, or default terms. Also, the terms of the transaction were not fully disclosed and transmitted in writing to the client in a reasonably understandable manner. In addition, the client was not advised in writing that he may seek the advice of an independent lawyer. Further, the client did not consent in writing to the terms of the transaction/acquisition.[12] Accordingly, it has been established that Respondent's March 3, 2008 business transaction with Mr. Robinson involving a $60,000 loan to the La Jolla Equities Fund constituted a willful violation of rule 3-300.

Count Four – Rule 3-300 [Avoiding Interests Adverse to a Client]

Count Four relates to Respondent's May 21, 2008 business transaction with his client, Mr. Robinson. In this transaction, Mr. Robinson loaned $90,000 to the La Jolla Equities Fund. The terms of this transaction were not reasonable or fair to the client, as there was no collateral, promissory note, or default terms. Also, the terms of the transaction were not fully disclosed and transmitted in writing to the client in a reasonably understandable manner. In addition, the client

---

[11] Clearly Mr. Robinson's signature on the deceptive and inaccurate Subscription Agreement #2 did not constitute written consent.

[12] Once again, Mr. Robinson's signature on the deceptive and inaccurate Subscription Agreement #3 did not constitute written consent.

was not advised in writing that he may seek the advice of an independent lawyer. Further, the client did not consent in writing to the terms of the transaction/acquisition. Accordingly, it has been established that Respondent's May 21, 2008 business transaction with Mr. Robinson involving a $90,000 loan to the La Jolla Equities Fund constituted a willful violation of rule 3-300.

Count Five – Rule 3-300 [Avoiding Interests Adverse to a Client]

Count Five relates to Respondent's July 10, 2008 business transaction with his client, Mr. Robinson. In this transaction, Mr. Robinson loaned $100,000 to the La Jolla Equities Fund. The terms of this transaction were not reasonable or fair to the client, as there was no collateral, promissory note, or default terms. Also, the terms of the transaction were not fully disclosed and transmitted in writing to the client in a reasonably understandable manner. In addition, the client was not advised in writing that he may seek the advice of an independent lawyer. Further, the client did not consent in writing to the terms of the transaction/acquisition. Accordingly, it has been established that Respondent's July 10, 2008 business transaction with Mr. Robinson involving a $100,000 loan to the La Jolla Equities Fund constituted a willful violation of rule 3-300.

Count Six – Rule 3-300 [Avoiding Interests Adverse to a Client]

Count Six relates to Respondent's July 25, 2008 business transaction with his client, Mr. Robinson. In this transaction, Mr. Robinson loaned $40,000 to the La Jolla Equities Fund. The terms of this transaction were not reasonable or fair to the client, as there was no collateral, promissory note, or default terms. Also, the terms of the transaction were not fully disclosed and transmitted in writing to the client in a reasonably understandable manner. In addition, the client was not advised in writing that he may seek the advice of an independent lawyer. Further, the client did not consent in writing to the terms of the transaction/acquisition. Accordingly, it has been established that Respondent's July 25, 2008 business transaction with Mr. Robinson involving a $40,000 loan to the La Jolla Equities Fund constituted a willful violation of rule 3-300.

Count Seven – Rule 3-300 [Avoiding Interests Adverse to a Client]

Count Seven relates to Respondent's August 12, 2008 business transaction with his client, Mr. Robinson. In this transaction, Mr. Robinson loaned $40,000 to Tradewinds Development. The terms of this transaction were not reasonable or fair to the client, as there was no collateral, promissory note, or default terms. Also, the terms of the transaction were not fully disclosed and transmitted in writing to the client in a reasonably understandable manner. In addition, the client was not advised in writing that he may seek the advice of an independent lawyer. Further, the client did not consent in writing to the terms of the transaction/acquisition. Accordingly, it has been established that Respondent's August 12, 2008 business transaction with Mr. Robinson involving a $40,000 loan to Tradewinds Development constituted a willful violation of rule 3-300.

Count Eight – Rule 3-300 [Avoiding Interests Adverse to a Client]

Count Eight relates to Respondent's December 9, 2008 business transaction with his client, Mr. Robinson. In this transaction, Mr. Robinson loaned $50,000 to Tradewinds Development. The terms of this transaction were not reasonable or fair to the client, as there was no collateral, promissory note, or default terms. Also, the terms of the transaction were not fully disclosed and transmitted in writing to the client in a reasonably understandable manner. In addition, the client was not advised in writing that he may seek the advice of an independent lawyer. Further, the client did not consent in writing to the terms of the transaction/acquisition. Accordingly, it has been established that Respondent's December 9, 2008 business transaction with Mr. Robinson involving a $50,000 loan to Tradewinds Development constituted a willful violation of rule 3-300.

Count Nine – Rule 3-300 [Avoiding Interests Adverse to a Client]

Count Nine relates to Respondent's December 31, 2008 business transaction with his client, Mr. Robinson. In this transaction, Mr. Robinson loaned $40,000 to the La Jolla Equities Income Fund. The terms of this transaction were not reasonable or fair to the client, as there was no collateral, promissory note, or default terms. Also, the terms of the transaction were not fully disclosed and transmitted in writing to the client in a reasonably understandable manner. In addition, the client was not advised in writing that he may seek the advice of an independent lawyer. Further, the client did not consent in writing to the terms of the transaction/acquisition. Accordingly, it has been established that Respondent's December 31, 2008 business transaction with Mr. Robinson involving a $40,000 loan to the La Jolla Equities Income Fund constituted a willful violation of rule 3-300.

Count Ten – Rule 3-110(A) [Failure to Perform Competently]

Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence. As noted above, Respondent was employed, in part, to help create an estate plan for Mr. Robinson. In substantial part, the estate planning services that Respondent rendered to Mr. Robinson consisted of "investing" $1,420,000 of Mr. Robinson's inheritance funds into Respondent's personal business entities. The majority of Mr. Robinson's funds were placed in unsecured loans with no written documentation, promissory notes, or collateral. So while it can be said that Respondent devised an "estate plan" for Mr. Robinson, Respondent's plan involved transferring his elderly client's funds into highly questionable and risky business ventures that directly benefitted Respondent. Respondent's reckless disregard for his client's best interests demonstrates his intentional, reckless, and repeated failure to perform legal services with competence, in willful violation of rule 3-110(A).

Aggravation[13]

Harm to Client/Public/Administration of Justice (Std. 1.5(j).)

Respondent's misconduct caused significant financial harm to Mr. Robinson. Respondent's misconduct deprived Mr. Robinson of a substantial sum of money for several years. Ultimately, Mr. Robinson, who was elderly and in questionable health, had to retain an attorney and sue Respondent in an effort to regain his $1,420,000. The financial harm Respondent caused Mr. Robinson warrants some consideration in aggravation.

Lack of Insight

Despite overwhelming evidence to the contrary, Respondent continues to classify his transactions with Mr. Robinson as "investments," rather than loans. Further, Respondent continues to assert that it was reasonable to put an elderly man with health problems in high risk, unsecured loans involving Respondent's own business entities. Also, Respondent doesn't seem to comprehend the significant conflicts of interest involved in simultaneously serving as Mr. Robinson's attorney, tax consultant, borrower, and managing member. Respondent's lack of insight and understanding of the severity of the present misconduct warrants some consideration in aggravation.

Uncharged Misconduct (Std. 1.5(h).)

Although evidence of uncharged misconduct may not be used as an independent ground of discipline, it may be considered in aggravation where the "evidence was elicited for the relevant purpose of inquiring into the cause of the charged misconduct [and where the finding of

---

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

uncharged misconduct] was based on [the respondent's] own testimony. . . ." (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 36.) Respondent testified in this proceeding that he signed Subscription Agreement #3 knowing that it did not do what it said it did. Accordingly, this document, prepared by Respondent's office and signed by Respondent, was a sham. No units of membership were ever going to be transferred to Mr. Robinson, and Respondent knew that when he and his then-81-year-old client signed the purported agreement. Knowingly preparing and signing a subscription agreement Respondent knew to contain misrepresentations constitutes moral turpitude (section 6106) and warrants some consideration as uncharged misconduct.

Mitigation

No Prior Record (Std. 1.6(a).)

Respondent has no prior record of discipline for over 30 years of practice prior to the first act of misconduct in this matter. Respondent's lack of a prior record of discipline warrants significant consideration in mitigation.

Good Character (Std. 1.6(f).)

Respondent presented good character evidence from one witness[14] and two declarants. Respondent's two declarants, however, did not demonstrate any understanding of the present misconduct. (See Exhibits 1064 and 1065.) The court assigns nominal weight in mitigation for Respondent's good character evidence.

Candor/Cooperation to Victims/State Bar (Std. 1.6(e).)

Respondent entered into a partial, but detailed stipulation of facts and admission of documents. Respondent's cooperation with the State Bar warrants some consideration in mitigation.

[14] This witness also provided a letter attesting to Respondent's good character.

Discussion

The primary purposes of attorney discipline are to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; std. 1.1.)

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.) Standard 1.7 provides that if aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors. And, if two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.7(a).)

Standard 2.4 applies in this matter. Standard 2.4 states that disbarment or actual suspension is appropriate for improperly entering into an unfair or unreasonable business transaction with a client.

The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) As the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

In addition to the standards, the court found *In the Matter of Peavey* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483, to be instructive. In *Peavey*, the attorney was actually suspended for two years and/until payment of restitution and satisfactory proof of rehabilitation, present fitness to practice, and present learning and ability in the general law. In this matter, the attorney borrowed a combined total of $49,000 from two clients to publish a book. The attorney did not advise his clients in writing that they may seek the advice of independent counsel. The loans were unsecured, but the attorney did provide promissory notes stating that he would pay 10% interest. After the loans went unpaid, his clients sued and obtained judgments against the attorney. In one matter, the default judgment included findings of fraud and breach of fiduciary duty. Among other things, the Review Department found that the attorney's two loans were not fair and reasonable because they were unsecured. Further, the court found that the attorney committed moral turpitude by not revealing the true status of the book he was attempting to publish. In mitigation, the attorney performed substantial pro bono work, presented good character evidence, and had no prior record of discipline in over 20 years of practice. In aggravation, the attorney committed multiple acts of misconduct, lacked candor and cooperation, caused harm to his elderly clients, demonstrated indifference, and was found culpable of uncharged misconduct involving taking an additional loan from a third client.

This court finds that the present matter is similar to *Peavey*, yet on a much grander scale. Here, Respondent improperly induced his elderly client, who had been in and out of hospitals and care facilities, to enter into nine separate business transactions over a three-and-a-half year period. The total sum involved was nearly 29 times the amount borrowed in *Peavey*.

Similar to *Peavey*, Respondent capitalized on his client's confidence and trust to obtain unsecured, high-risk loans. Unlike *Peavey*, Respondent did not even provide his client with promissory notes to memorialize the loans. As the loans Respondent procured from Mr. Robinson involved either no documentation or fraudulent documentation, this matter would have been next to impossible for Mr. Robinson's next-to-kin to decipher.

Therefore, after weighing the evidence, including the egregious nature and extensive scope of the present misconduct, as well as the factors in aggravation and mitigation, the court finds no compelling reason to recommend a level of discipline short of disbarment. Additionally, the court finds that the interests of public protection mandate a recommendation of disbarment.

Recommendations

It is recommended that Respondent **John Douglass Jennings, Jr.**, State Bar Number 52504, be disbarred from the practice of law in California and Respondent's name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

It is further recommended that Respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

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 of Involuntary Inactive Enrollment

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule

5.111(D)(2) of the State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: October 7, 2015

LUCY ARMENDARIZ
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 San Francisco, on October 7, 2015, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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 San Francisco, California, addressed as follows:

ELLEN ANNE PANSKY
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030

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

ANTHONY J. GARCIA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 7, 2015.

Bernadette C.O. Molina
Case Administrator
State Bar Court