

PUBLIC MATTER

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AUG 29 2016

STATE BAR COURT OF CALIFORNIA

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of)	Case No.: 12-O-13553-PEM
)	
DEBORAH ANN ELDRIDGE,)	DECISION
)	
Member No. 197963,)	
)	
<u>A Member of the State Bar.</u>)	

Introduction¹

In this contested disciplinary proceeding, the Office of Chief Trial Counsel of the State Bar of California (State Bar) charged respondent **Deborah Ann Eldridge** with failing to timely comply with California Rules of Court, rule 9.20,² and committing an act of moral turpitude by making a false statement in her compliance declaration.

In October 2013, this court dismissed the matter, finding that the prophylactic effect of rule 9.20 was served.

In October 2015, the review department issued an opinion and order reversing the dismissal and returning the matter for further proceedings consistent with its opinion, including a trial on issues of culpability, and, if found, a recommendation as to the appropriate level of discipline.

¹ Unless otherwise indicated, all statutory references are to the Business and Professions Code, unless otherwise indicated.

² References to rules are to the California Rules of Court, unless otherwise noted.



After a five-day trial, respondent argued that a private reproof would be adequate while the State Bar urged disbarment. After considering the facts and the law, the court finds that respondent is culpable of willfully violating rule 9.20, but did not commit an act of moral turpitude. In light of the applicable attorney discipline standards and case law and in view of respondent's mitigating and aggravating evidence, including one prior disciplinary record, the court recommends, among other things, that respondent be suspended from the practice of law for two years, that execution of suspension be stayed, that she be placed on probation for two years, and that she be actually suspended for two years and until she has shown proof satisfactory to the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct (std.).

Significant Procedural History

The State Bar initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on June 10, 2013. On July 8, 2013, respondent, represented by attorney Jonathan I. Arons, filed a response. The matter was then set for trial on November 12, 2013.

On September 16, 2013, respondent filed a motion to dismiss, claiming not only that she had complied with rule 9.20, "but the spirit of the rule was followed in that pertinent parties were made aware of [respondent's] pending suspension."

On October 21, 2013, this court granted respondent's motion to dismiss, over the State Bar's objection, and dismissed the matter with prejudice. On November 15, 2013, the State Bar requested a review of the hearing court's order dismissing the matter.

On October 9, 2015, the review department found that, because the Rules of Procedure of the State Bar do not provide for a pretrial summary judgment motion and the Supreme Court order's filing date, not the effective date, is the operative date, this court improperly dismissed

the matter. Therefore, the review department reversed the dismissal and remanded the matter for further proceedings consistent with its opinion.

An initial status conference was set to be held on December 7, 2015, but was continued to January 2016 due to the unexpected death of respondent's son. A five-day trial was heard on May 17, 18, 19, 23, and 24, 2016. Deputy Trial Counsel Heather E. Abelson represented the State Bar. Attorney Jonathan I. Arons represented respondent.

Following receipt of closing briefs from the parties, the court took this proceeding under submission on June 17, 2016.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on December 2, 1998, and has been a member of the State Bar of California at all times since that date.

California Rules of Court, Rule 9.20

Facts

On April 27, 2010, the Supreme Court issued an order suspending respondent for three years, stayed, with five years' probation, and two years' actual suspension and until she provided proof to the State Bar Court of her rehabilitation, fitness to practice, and learning and ability in the general law pursuant to former standard 1.4(c)(ii). (Supreme Court case No. S180385; State Bar Court case Nos. 06-O-13222 (08-O-12330; 08-O-13969; 08-O-13970).) Among other things, the Supreme Court ordered respondent to comply with rule 9.20, subdivisions (a) and (c), within 30 and 40 days, respectively, after the effective date of the Order. The Order became effective May 27, 2010, and was duly served on respondent. Respondent admitted that she received the Order.

Thus, respondent was ordered to comply with rule 9.20, subdivision (a) and/or (b), no later than June 26, 2010, and was ordered to comply with rule 9.20, subdivision (c), no later than July 6, 2010.

1. *The Siminski Matter*

Prior to respondent's suspension, she practiced in a law firm with her husband, Richard Eldridge (Richard), under the name of "Law Offices of Eldridge and Eldridge." Following her suspension, the law office name was changed to "Law Offices of Richard Eldridge."

As of December 12, 2008, respondent represented Bonnie Siminski in *Siminski v. Siminski*, Placer County Superior Court, case No. SDR 30867. In January 2010, respondent informed Ms. Siminski that she would no longer be able to be her attorney of record and that Richard was going to be the attorney of record due to her impending suspension. However, respondent did not send a letter to Ms. Siminski confirming that Richard was going to be her attorney.³ Respondent remained as attorney of record in this matter until she filed a substitution of attorney on May 26, 2010, one day before the commencement of her actual suspension. Richard substituted into the *Siminski* matter.

Attorney Denise Dirks was the opposing counsel and was notified of the substitution of attorney by U.S. mail sent to her office address in Rocklin. But respondent did not serve attorney Dirks with notice of her suspension under rule 9.20. Respondent mistakenly thought that since she had substituted out of the case before the effective date of the order, rule 9.20, subdivision (a)(1), requiring notification to clients in pending matters, and rule 9.20, subdivision (a)(4), requiring notification to opposing counsel in pending matters, were not triggered. Furthermore, attorney Dirks was aware of respondent's underlying State Bar disciplinary matter

³ Ms. Siminski testified that she was aware of respondent's suspension as early as January 2010 and the court finds her testimony to be truthful.

and pending suspension because she was a witness for the State Bar in respondent's original discipline matter in 2009.

2. *The Hackett Matter*

Respondent represented Elissa Hackett in several family law cases before the Sacramento County Superior Court in 2009. As of April 27, 2010, she was counsel of record in *Hackett v. Hackett*, Sacramento County Superior Court, case No. 05FL01573. Attorney Dirks was also the opposing counsel in the *Hackett* matter. While there was substantial disputed testimony regarding whether this case had been consolidated with other cases involving the same parties (case Nos. 05FL08641; 06FL01314; and FL850506), the court finds that there is no dispute that respondent remained counsel of record in the *Hackett* matter after April 27, 2010, and until she filed a motion to withdraw on May 26, 2010. Moreover, respondent did not provide written notice of her suspension to attorney Dirks in the *Hackett* matter.

3. *The Martinez Matter*

In November 2008, respondent substituted in as counsel of record for Brandi-Lyn Vedder (Martinez) in *In Re Marriage of Martinez*, Sacramento County Superior Court, case No. 06FL00863. Donna DeCuir was opposing counsel. Attorney DeCuir testified that the last appearance respondent made in the *Martinez* matter was in 2009, and that Richard made all appearances in the case after 2009. This testimony is corroborated by the fact that the last known court document in this case is dated January 19, 2010, and Richard is listed as the attorney of record. According to attorney DeCuir, although respondent never made any appearances in the *Martinez* matter after 2009, respondent never formally substituted out of the case. Attorney DeCuir never received any notice that respondent had been suspended from the practice of law.

4. *The McCook Matter*

In 2009, respondent was the attorney of record for Carole McCook in *McCook v. Gherini*, Sacramento County Superior Court, case No. 02FL06195. Attorney Margaret Walton was the opposing counsel. On May 26, 2010, attorney Walton received a substitution of attorney from respondent, which indicated that Richard would be representing McCook. When she received the substitution of attorney form from respondent, she was not aware that respondent had been suspended. The last time attorney Walton had received any court related orders/papers in the *McCook* matter was a notice of unavailability in July 2009. Attorney Walton does not recall having any discussion with Gherini from 2010 to 2012, although she testified that that matter was still pending as of May 26, 2010.

5. *Rule 9.20 Compliance Declaration*

The Supreme Court's April 27, 2010 order (SCO) became effective on May 27, 2010. The following day, respondent filed the required rule 9.20 compliance declaration, stating under penalty of perjury:

"I notified all clients and co-counsel, in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my consequent disqualification to act as an attorney after the effective date of the order of suspension/disbarment, and in those cases where I had no co-counsel, I urged the clients to seek legal advice elsewhere, calling attention to any urgency in seeking another attorney. [¶] . . . [¶]"

"I notified all opposing counsel or adverse parties not represented by counsel in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my disqualification to act as an attorney after the effective date of my suspension, . . . and filed a copy of my notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending for inclusion in its files."

Conclusions

Count One – (Rule 9.20 [Duties of Disbarred, Resigned, or Suspended Attorneys])

Rule 9.20, subdivision (a), provides, in relevant part, that an attorney must:

“(1) Notify all clients being represented *in pending matters* and any co-counsel of his or her [suspension] and his or her consequent disqualification to act as an attorney after the effective date of the [suspension], and in the absence of co-counsel, also notify the clients to seek legal advice elsewhere. [¶] . . . [¶]

(4) Notify opposing counsel *in pending litigation* or, in the absence of counsel, the adverse parties of the [suspension] and consequent disqualification to act as an attorney after the effective date of the [suspension], and file a copy of the notice with the court, agency, or tribunal before which the litigation is pending for inclusion in the respective file or files.” (Italics added.)

Moreover, rule 9.20, subdivision (c), provides that “[w]ithin such time as the order may prescribe after the effective date of the member’s [suspension], the member must file with the Clerk of the State Bar Court an affidavit showing that he or she has fully complied with those provisions of the order entered under this rule.”

Respondent argued that she did not violate rule 9.20 because she had no pending cases as of the effective of the Supreme Court order and thus count one should be dismissed with prejudice. The court rejects this contention.

At trial, respondent admitted that she did not notify opposing counsel in the *Siminski* matter, by certified or registered mail, return receipt requested, of her disqualification to act as an attorney after the effective date of her suspension. She did not notify opposing counsel because it was her belief that Siminski was not her client at the time because she had filed a substitution of counsel in the matter the day before the effective date of the Supreme court order.

As to the *Hackett* matter, respondent admitted that she did not notify opposing counsel, by certified or registered mail, return receipt requested, of her disqualification to act as an attorney after the effective date of her suspension because she believed that Hackett was no longer her client as she had substituted out of the case.

As to the *Martinez* matter, respondent ceased appearing as counsel of record for the client in 2009. It is clear that by 2010, Richard was listed as counsel of record in the matter. Respondent, at the time she filed the declaration, did not think she was counsel of record in the

Martinez matter. As such she believed that there was no need to provide the required notification under the rule 9.20 order.

As to the *McCook* matter, respondent filed a substitution of counsel on May 26, 2010, again one day before the commencement of her actual suspension. The substitution of attorney form indicated that Richard would be representing McCook. Respondent believed that since she had substituted out of the McCook matter prior to the commencement of her actual suspension, she did not have to comply with the notification requirements of rule 9.20.

However, her assertion that withdrawing as attorney of record on May 26, 2010, immunizes her from the requirements of rule 9.20 is not supported by case law. Basically, respondent attempted to circumvent rule 9.20 by withdrawing from the *Hackett*, *Siminski*, and *McCook* matters on the eve of her suspension.

It is well settled that strict compliance with an attorney's obligations under rule 9.20 is required. (See *Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187.) In *Athearn v. State Bar of California* (1982) 32 Cal.3d 38, the Supreme Court held that former rule 955 (now rule 9.20) contemplated advanced notice. Consequently, the operative date for identification of clients being represented in pending matters and of others to be notified under the rule is the filing date of the Supreme Court order, and not the effective date. (*Id.* at p. 45.)

Therefore, in this case, the operative date for identification of clients and opposing counsel would be the Supreme Court order's filing date of April 27, 2010, and not the effective date of respondent's suspension on May 27, 2010. Respondent was clearly mistaken that because she had substituted out of the cases by May 26, 2010, she had no pending cases and thus, did not have to comply with the notification requirements of rule 9.20. In fact, the *Siminski*, *Hackett*, *McCook*, and *Martinez* matters were all pending as of April 27, 2010, and she had an obligation to notify those clients and the opposing counsel. Respondent was required to give written notice

of her suspension to clients, opposing counsel, and the court, via certified or registered mail, on all pending matters in which she was counsel of record as of April 27, 2010, but she had failed to do so.

Thus, respondent had willfully failed to strictly comply with rule 9.20, as ordered by the Supreme Court. (*Durbin v. State Bar* (1979) 23 Cal.3d 461, 467 [All that is necessary for a willful violation of rule 9.20 is a general purpose or willingness to commit the act or make the omission.])

Count 2 - (§ 6106 [Moral Turpitude])

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment.

The State Bar alleged that respondent violated section 6106 by making statements under penalty of perjury in the rule 9.20 compliance declaration which respondent knew or was grossly negligent in not knowing that they were false. Specifically, the State Bar charged that when she declared that she had notified all her clients and opposing counsel in the declaration, respondent had not timely provided the written notifications to Siminski and to opposing counsel, as required by rule 9.20, subdivisions (a)(1) and (a)(4), and had not sent any of the notices by certified or registered mail, return receipt requested, as required by rule 9.20, subdivision (b).

On the other hand, respondent contended that when she signed the rule 9.20 compliance declaration under penalty of perjury, she truly thought that she no longer represented Siminski as she had told the client in January 2010 about her pending suspension and had filed a substitution of attorney on May 26, 2010. Respondent credibly testified that when she filed the declaration on May 28, 2010, she reasonably believed that as of May 27, 2010, she was sure she had no clients.

Although the rule 9.20 Order required respondent to notify all clients and opposing counsel, she did not do so. But, she never checked the box in the rule 9.20 compliance declaration that she had no clients. In *In the Matter of Klein* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1, where the attorney did not intend to deliberately defy a court order and did not have any dishonest or wrongful intent, and where his improper conduct was based on beliefs and understandings which, although not only mistaken but also objectively unreasonable, were honestly held, the court found that he did not commit acts involving moral turpitude. (See *Sternlieb v. State Bar* (1990) 52 Cal.3d 317.)

Similarly, respondent did not intentionally file a false affidavit that she had no clients or any pending matter. While she failed to comply with rule 9.20 and the rule 9.20 compliance declaration was not accurate, she honestly believed, albeit mistakenly, that she had no clients and that she no longer represented Siminski, Hackett, McCook and Martinez. The court believes respondent was genuinely unaware of the fact that the operative date for identification of clients being represented in pending matters and of others to be notified under the rule is the filing date of the Supreme Court order and not the effective date. Reasonable doubts in proving a charge of professional misconduct must be resolved in the accused attorney's favor. (*Ballard v. State Bar* (1983) 35 Cal.3d 274, 291.)

Overall, respondent's attempts to circumvent rule 9.20 by withdrawing from the *Hackett*, *Siminski* and *McCook* matters do not rise to the level of moral turpitude. Nor does her perhaps mistaken belief that she was no longer counsel of record in the *Martinez* matter constituted an act of moral turpitude. Given respondent's strict duty to comply with rule 9.20, her failure to notify the clients or the opposing counsel in writing regarding her suspension was unreasonable. Nonetheless, the court finds that she made an unintended, honest mistake. Such an honest but unreasonable violation of rule 9.20 does not, in itself, amount to moral turpitude.

Based on this evidence, the court finds that respondent's acts were not contrary to honesty and good morals or that she intentionally or grossly negligently made false statements in her compliance declaration. Therefore, there is no clear and convincing evidence that respondent's acts constituted moral turpitude in willful violation of section 6106.

Aggravation⁴

Prior Record of Discipline (Std. 1.5(a).)

Respondent has a record of one prior disciplinary action.

In the underlying matter, on April 27, 2010, the Supreme Court ordered that respondent be suspended from the practice of law for three years, stayed, placed on probation for five years, and was actually suspended for two years and until she has shown proof satisfactory to the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law. Respondent stipulated to misconduct in four client matters, including failing to maintain respect to the courts; committing acts of moral turpitude; violating a court order; failing to perform legal services with competence; entering into a business transaction and asserting a possessory interest without the proper waivers; failing to render an accounting; communicating with a represented party; and failing to return client property. Mitigation included candor and cooperation with the State Bar. Aggravation involved significant harm to the administration of justice and client and multiple acts of wrongdoing. (Supreme Court case No. S180385; State Bar Court case Nos. 06-O-13222 et al.)

⁴ All references to standards (std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Mitigation

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

No clients were harmed by respondent's failure to timely notify them of her suspension since she had substituted out of those cases. (See *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527, 532.)

Extreme Emotional/Physical/Mental Disabilities (Std. 1.6(d).)

Respondent voluntarily joined the LAP and Al-Anon, a 12-step program for friends and families of alcoholics. And she has continued in her weekly group therapy sessions with her psychologist. Although there is no nexus shown between her emotional difficulties and misconduct, respondent's severe depression is given some minimal weight in mitigation as she has undertaken a program of steady progress toward rehabilitation. (*In the Matter of Deierling* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552.)

Good Character (Std. 1.6(f).)

Respondent presented evidence of good character. Thirteen witnesses testified and attested to her good character, including attorneys, a judge, a client, a therapist, and friends. The court did not consider three of the witnesses' testimony (Cynthia Francis, Jeremy Fowler, and Seth Goldstein) as they clearly were not aware of the full extent of respondent's charges or her disciplinary record.

The other 10 character witnesses credibly testified to respondent's good character, tenacity, integrity, professionalism, sincerity, diligence, thoughtfulness, and dedication. Many of whom have known respondent for more than five years and attested to respondent's commitment to her clients, especially the children. Her community work includes delivering gifts to a battered women's center as well as food to food banks. Despite her past disciplinary record, they

still opined that respondent is a person of good moral character and that she is remorseful of her past misconduct.

Attorney Melva Menzies Warriner, a certified family law specialist, opined that respondent's ongoing therapy "has helped her understand her prior actions and overreactions and why she has felt that she needed to protect children at any cost...[S]he now has a much deeper understanding of boundaries and why they are so important."

Dr. Tim Willison, respondent's psychotherapist, was a group facilitator for Lawyer Assistance Program (LAP), where he first met respondent more than six years ago. After leaving LAP, he continued to work with respondent privately in group therapy. Respondent attends the weekly meetings. He opined that, given respondent's difficult and tragic personal life, she is a "much wiser, more mature, and infinitely more emotionally resourced woman" than she was six years ago. He has watched her deal with major challenges and the devastating loss of her son and how she has grown and changed as she moved through both. He would recommend her as an attorney without hesitation.

Bonnie Burlock (formerly Siminski), respondent's client, testified that in her contentious marital dissolution matter, respondent was compassionate, honest, cooperative and cordial throughout her legal representation.

Remorse/Recognition of Wrongdoing (Std. 1.6(g).)

Dr. Willison observed that since joining his weekly group therapy, respondent has accepted responsibility for her misconduct. The court finds that respondent is genuinely remorseful and recognizes her wrongdoing.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest

possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d. 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d. 1016, 1025; Std. 1.1.) In determining the 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 1.8(a) provides that, when an attorney has one prior record of discipline, “the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.”

Rule 9.20, subdivision (d), provides that willful failure to comply with rule 9.20 is a cause for disbarment or suspension.

The standards, however, “do not mandate a specific discipline.” (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.) It has long been held that the court is “not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, [the Supreme Court is] permitted to temper the letter of the law with considerations peculiar to the offense and the offender.” (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) While the standards are entitled to great weight (*In re Silverton* (2005) 36 Cal.4th 81, 92), they do not provide for mandatory disciplinary outcomes. Although the standards were established as guidelines, “ultimately, the proper recommendation of discipline rest[s] on a balanced consideration of the unique factors in each case.” (*In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

The court finds these cases instructive.

In *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527, the attorney filed the former rule 955 affidavit two weeks late but before disciplinary action was

commenced. The attorney had notified his clients and complied with the requirements of former rule 955, subdivision (a). In aggravation, the attorney had two prior disciplines. In mitigation, the attorney participated in the disciplinary matter, cooperated with the State Bar, recognized his mistakes, and was working on rectifying his misconduct. The attorney was actually suspended for 30 days.

In *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192, the attorney was found culpable of failing to comply with former rule 955 and violating the terms of his disciplinary probation. The attorney had attempted to file his former rule 955 affidavit two weeks late. The attorney argued that he did not timely file his former rule 955 affidavit due to his beliefs that: (1) he was not required to file a former rule 955 affidavit because he had no clients and had no one to notify, and (2) he had already filed a former rule 955 affidavit in his first discipline and he had nothing to report. In aggravation, the attorney had two prior disciplines. In mitigation, the attorney had demonstrated recognition of wrongdoing, there was a lack of harm, and the attorney had engaged in pro bono activities. The attorney received, *inter alia*, an actual suspension of nine months.

Finally, in *Shapiro v. State Bar* (1990) 51 Cal.3d 251, the Supreme Court imposed a discipline including a one-year actual suspension for the attorney's failure to timely comply with the requirements of former rule 955, subdivision (c). That discipline recommendation was based on several factors, including the fact that the attorney's late filing was partially due to inadequate guidance from his probation monitor, and that the attorney had timely notified his clients and others of his suspension. Additionally, when the attorney learned his affidavit was deemed insufficient by the court, he contacted his probation monitor and retained a law firm to assist him with compliance. In mitigation, the Supreme Court considered the attorney's lack of prior discipline over a 16 year period to be a mitigating factor. The attorney was also awarded

mitigation for presenting favorable character testimony and for the fact that he was undergoing physical and psychological difficulties. In view of the mitigation, the Supreme Court found that the review department's recommendation of two years' actual suspension was excessive.

In view of the foregoing cases, the court finds guidance in *Shapiro*. Respondent's misconduct was more serious than that of *Shapiro* in that she did not properly notify her clients and opposing counsel of her suspension and her mitigation was not as compelling as that of the attorney in *Shapiro*. Thus, her misconduct warrants a more severe level of discipline than the one year's actual suspension imposed in *Shapiro*. But like *Shapiro*, ordering a sanction that is greater than her previously imposed sanction of two years' actual suspension under standard 1.8(a) would be excessive and punitive, in light of her technical violation of rule 9.20 and lack of client harm in this proceeding.

The court recognizes that a finding that an attorney willfully violated rule 9.20 is sufficient grounds for disbarment when the evidence in mitigation is not compelling. (*Dahlman v. State Bar* (1990) 50 Cal.3d 1088; *Bercovich v. State Bar* (1990) 50 Cal.3d 116; *In the Matter of Lynch* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287; *In the Matter of Pierce* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 382.) But in this matter, unlike the former cases where attorneys have been disbarred for noncompliance with rule 9.20, respondent fully participated in the disciplinary process; her noncompliance did not involve dishonesty; and respondent did not avoid compliance with the rule or attempt to take advantage of any individual's lack of knowledge of her suspension for an improper purpose. Thus, disbarment is not required under these circumstances and would otherwise be punitive. (*Durbin v. State Bar, supra*, 23 Cal.3d 461; *In the Matter of Rose, supra*, 3 Cal. State Bar Ct. Rptr. 192.)

The court, therefore, concludes that the State Bar's recommendation of disbarment is too severe and respondent's argument for a private reproof is inadequate. Yet, respondent's willful

violation of rule 9.20 is, "by definition, deserving of strong disciplinary measures" (*Hippard v. State Bar* (1989) 49 Cal.3d 1084).

"In determining the appropriate discipline in this case, [the court] must bear in mind not only the foregoing mitigation but also the overriding principle that the purpose of these proceedings is not to punish an attorney but to inquire into the moral fitness of an officer of the court to continue in that capacity and to afford protection to the public, the courts, and the legal profession." (*Shapiro v. State Bar, supra*, 51 Cal.3d 251, 260.)

Therefore, in consideration of the totality of circumstances, including the unusual, prolonged procedural history of this proceeding, the relevant mitigating and aggravating factors, the range of discipline suggested by the rule, the standard, and the case law, and respondent's current suspension from the practice of law since May 2010, the court recommends that a two years' actual suspension, which will continue until she proves her rehabilitation, fitness to practice and learning and ability in the general law as previously imposed, will adequately protect the public.

Recommendations

It is recommended that respondent Deborah Ann Eldridge, State Bar Number 197963, is suspended from the practice of law in California for two years, that execution of the suspension be stayed, and that respondent be placed on probation⁵ for two years subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first two years of probation, and respondent will remain suspended until the following requirement is satisfied:

Respondent must provide satisfactory proof to the State Bar Court of her rehabilitation, fitness to practice and present learning and ability in the general law

⁵ 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.)

before her actual suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

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 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.
4. Within 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.
5. 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 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. 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.
7. Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

Multistate Professional Responsibility Examination

It is recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination during the period of her suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

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.

Dated: August 29, 2016


PAT McELROY
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 August 29, 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 San Francisco, California, addressed as follows:

JONATHAN IRWIN ARONS
LAW OFC JONATHAN I ARONS
100 BUSH ST STE 918
SAN FRANCISCO, CA 94104

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

Robert A. Henderson, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 29, 2016.


Laurretta Cramer
Case Administrator
State Bar Court