

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 13-PM-10220-RAH (S191124)
)	
MELISSA SOYOUNG LEE)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION; DISCIPLINE
Member No. 195720)	RECOMMENDATION; INVOLUNTARY
)	INACTIVE ENROLLMENT ORDER.
<u>A Member of the State Bar.</u>)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Respondent Melissa Soyoung Lee did not participate in this proceeding although she was properly served with the motion to revoke probation by certified mail, return receipt requested, and by regular mail at her State Bar membership records address.

On May 19, 2011, the California Supreme Court filed an order, S191124, accepting the State Bar Court’s discipline recommendation, including specified probation conditions, in case nos. 07-O-12236 (07-O-12875; 07-O-12959; 07-O-13278). It became effective on June 18, 2011 (Rule 9.18(a), California Rules of Court) and was properly served on respondent.¹ A copy of the stipulation and the State Bar Court’s order approving same had previously been properly served on respondent on January 13, 2011.

¹In the absence of evidence to the contrary, the court finds that the Clerk of the Supreme Court performed his or her duty by transmitting a copy of the Supreme Court’s order to respondent immediately after its filing. (Rule 8.532(a), Cal. Rules of Court; Evid. C. §664; *In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.)

On June 16 and August 18, 2011, the Office of Probation sent respondent reminder letters regarding the probation conditions, among other things, at her official address. Neither letter was returned as undeliverable. In a conversation with the Office of Probation on August 18, 2012, respondent indicated that she had not received the June 16 letter as she had been away and did not know if her office had because they had not told her. She was informed that a second letter had been sent to her that day and to call after she had received it to set an appointment. She did so on August 22, 2011.

Respondent returned the Office of Probation's September 27, 2011, call the next day. She indicated that she could not receive messages on her cell phone very well in the area and that she would call back.

Later, on June 18, 2012, the Office of Probation had sent respondent an email at her email address maintained for State Bar purposes. The email indicated, in part, that the Office of Probation had left a message for her with the receptionist and to contact the Office of Probation as soon as possible to discuss her noncompliance as she was currently in serious violation of probation. When respondent returned the call that same day, she was informed, among other things, that the State Bar Court had been informed that she did not pass the Multistate Professional Responsibility Examination and that she was facing a referral for prosecution of probation conditions. She was asked to submit the missing quarterly reports, law office management plan, proof of enrollment in the Law Practice Management and Technology Section and proof of completion of Ethics School.

The court finds by a preponderance of the evidence pursuant to Business and Professions Code section 6093, subdivisions (b) and (c) and rule 5.311, Rules Proc. of State Bar,² that respondent did not comply with the following probation conditions:

(a) Contacting the Office of Probation within 30 days of the effective date of discipline, that is, by July 18, 2011. She did not make contact or have a meeting with the Office of Probation until August 2012;

(b) Joining the Law Practice Management and Technology Section of the State Bar within 30 days of the effective date of discipline, that is, by July 18, 2011, and maintaining membership for two years;

(c) Develop a law office management/organization plan to be approved by the Office of Probation within 90 days of the effective date of discipline, that is, by September 16, 2011. Respondent's September 16, 2011, motion to extend the time to submit the plan was denied;

(d) During the period of probation, submitting 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). Respondent did not submit the quarterly reports due on the tenth of October 2011; January, April, July and October 2012; and January 2013. On June 19, 2012, respondent attempted to fax a quarterly report for October 2011 but it was not filed as it did not contain a statement that she was in compliance with the State Bar Act and Rules of Professional Conduct;

(e) Within nine months of the effective date of discipline, that is, by March 18, 2012, submit evidence of completion of at least six hours of Minimum Continuing Legal Education-

² Future references to section and rule are to the Business and Professions Code and Rules of Professional Conduct, respectively.

approved classes in law office management, attorney-client relations and/or general legal ethics;
and

(f) Within one year of the effective date of discipline, that is, by June 18, 2012, successfully complete Ethics School and provide proof thereof to the Office of Probation.

AGGRAVATING AND MITIGATING FACTORS

Respondent has one prior record of discipline which included, among other things, two years' stayed suspension and two years' probation subject to conditions, including 60 days' actual suspension. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,³ std. 1.2(b)(i).) In S191124, respondent and the State Bar stipulated to culpability in four client matters for violations of rules 3-110(A) (not performing competently - four counts), and section 6068, subdivision (m) (not communicating - three counts.) The parties stipulated to mitigating factors including no prior discipline in eight years of practice; candor and cooperation; emotional or physical difficulties; and family problems. There were no aggravating factors.

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

Respondent significantly harmed the administration of justice as her noncompliance with the probation conditions made it more difficult for the State Bar to appropriately monitor her in seeking to insure the protection of the public and the courts. (Std. 1.2(b)(iv).)

Further, she demonstrated indifference toward rectification of or atonement for the consequences of her misconduct by not complying despite reminders from the Office of Probation. (Std. 1.2(b)(v).)

³ Future references to standard or std. are to this source.

It is respondent's burden to establish mitigating factors, but, since she did not participate in this proceeding, none is found.

DISCUSSION

The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violation and respondent's recognition of the misconduct and the efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) Having considered these factors and the Office of Probation's contentions, the court believes that actual suspension for two years and until respondent complies with standard 1.4(c)(ii) is sufficient to protect the public in this instance. Respondent was aware of the terms and conditions of her disciplinary probation, yet did not comply with them despite reminders from Office of Probation. Accordingly, the motion to revoke probation is GRANTED.

DISCIPLINE RECOMMENDATION

The court recommends that the probation of respondent Melissa Soyoung Lee, previously ordered in Supreme Court case matter S191124 (State Bar Court case nos. 07-O-12236 (07-O-12875; 07-O-12959; 07-O-13278), be revoked; that the previous stay of execution of the suspension be lifted, and that respondent is suspended from the practice of law for a minimum of two years, and that she will remain suspended until the following requirement is satisfied:⁴

- i. Melissa Soyoung Lee must provide proof to the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law before suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)

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

⁴ This level of discipline is consistent with rule 5.312, Rules Proc. of State Bar.

9.20(c) within 40 calendar days after the effective date of the order showing respondent's compliance with said order.⁵

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.)

It is not recommended that respondent be ordered to successfully complete the Multistate Professional Responsibility Examination as she was ordered to do so in Supreme Court order S191124 (State Bar Court case nos. 07-O-12236 (07-O-12875; 07-O-12959; 07-O-13278).

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

Respondent is involuntarily enrolled inactive pursuant to Business and Professions Code section 6007, subdivision (d). 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 THEREFORE ORDERED that respondent Melissa Soyoung Lee be involuntarily enrolled as an inactive member of the State Bar of California pursuant to Business and

⁵Respondent is required to file a rule 9.20(c) affidavit even if she has no clients. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 130.)

Professions Code section 6007, subdivision (d). This enrollment shall be effective three days following service of this order.

IT IS ALSO ORDERED that her 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 her inactive enrollment pursuant to this order. (Business and Professions Code section 6007, subdivision (d)(3).)

Dated: March _____, 2013

RICHARD A. HONN
Judge of the State Bar Court