

PUBLIC MATTER
STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

FILED
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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of)	Case Nos.: 14-N-05138, 14-O-04411;
)	14-O-04786-DFM
EDWARD MEDINA,)	DECISION INCLUDING DISBARMENT
)	RECOMMENDATION AND
Member No. 204880,)	INVOLUNTARY INACTIVE
)	ENROLLMENT ORDER
<u>A Member of the State Bar.</u>)	

INTRODUCTION

Respondent **Edward Medina** (Respondent) is charged here with eight counts of misconduct including willfully failing to comply with rule 9.20 of the California Rules of Court and violations of section 6106 of the Business and Professions Code¹ (moral turpitude-misrepresentation) [five counts] and rule 1-300(B) of the Rules of Professional Conduct² (unauthorized practice of law in another jurisdiction) [two counts]. In view of Respondent's misconduct and the aggravating factors, the court recommends, inter alia, that Respondent be disbarred from the practice of law.

PERTINENT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) was filed in this matter by the State Bar of California on May 19, 2015. On June 15, 2015, Respondent filed his response to the NDC, denying all of the allegations of the NDC and any culpability in the matter.

¹ Unless otherwise noted, all future references to section(s) will be to the Business and Professions Code.

² Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.

On June 22, 2015, an initial status conference was held in the matter at which time the case was scheduled to commence trial on September 15, 2015, with a three-day trial estimate.

On September 10, 2015, the parties filed a joint stipulation of undisputed facts in which Respondent admitted virtually all of the material facts in this matter.

Trial was commenced and completed on September 15, 2015. At the outset of the trial, Respondent stipulated to culpability for all eight counts of the NDC. The State Bar was represented at trial by Deputy Trial Counsel Shane C. Morrison. Respondent was represented by Marisol Ocampo of Century Law Group LLP.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on the stipulation of undisputed facts filed by the parties and on the documentary and testimonial evidence admitted at trial.

Jurisdiction

Respondent was admitted to the practice of law in California on December 8, 1999, and has been a member of the State Bar at all relevant times.

Background Facts

On June 9, 2014, the California Supreme Court filed order S217569, which ordered that Respondent be suspended from the practice of law for one year, with execution of that period of suspension stayed, and placed on probation for one year subject to various conditions, including that he be suspended from the practice of law for the first 90 days of probation. The discipline was imposed in connection with a stipulation in State Bar Court case No. 13-O-10730, wherein Respondent acknowledged that he committed an act of moral turpitude in willful violation of section 6106 by falsely reporting to the State Bar that he was in compliance with his Minimum Continuing Legal Education (MCLE) requirements when he knew that he was not. The misconduct was aggravated by Respondent's subsequent lack of candor to the State Bar during

the disciplinary investigation. That misconduct was mitigated by Respondent's lack of any prior record of discipline and by Respondent's cooperation in resolving the disciplinary matter before trial.

The Supreme Court's order was served on Respondent; was received by Respondent; and became effective on July 9, 2014, at which point Respondent's actual suspension began.

An additional portion of the Supreme Court's order required Respondent to comply with rule 9.20 of the California Rules of Court (rule 9.20) and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the disciplinary order. In relevant part, subdivision (a) provides that an attorney must: "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; [¶] 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." Subdivision (c) provides, inter alia, 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." Pursuant to the disciplinary order, Respondent was required to comply with subdivision (a) of rule 9.20 by August 8, 2014, and with subdivision (c) of rule 9.20 by August 18, 2014.

On July 9, 2014, the Office of Probation mailed a letter to Respondent, notifying him of the effective date of his suspension, outlining his probation conditions, and reminding him of the deadlines for complying with rule 9.20. Respondent received this letter.

Pursuant to rule 9.20(a), Respondent was required to provide notice of his suspension to, among others, the following of Respondent's clients who were being represented by Respondent in matters pending in the United States Bankruptcy Court for the Southern District of California ("Bankruptcy Court") as of the effective date of Respondent's suspension:

- a. William Nordquist, in case number 14-04212-CL7;
- b. Gregory and Tyra Droegemueller, in case number 14-05005-MM13; and
- c. Brian Pigott, in case number 14-01965-LT13.

Respondent did not provide notice of his suspension to the above clients, as required by rule 9.20(a) and the disciplinary order.

Pursuant to rule 9.20(a), Respondent was required to provide notice of his suspension to opposing counsel and file a copy of such notice with the court in, among others, the following litigation matters in which Respondent was a counsel of record that were pending in the Bankruptcy Court as of the effective date of Respondent's suspension:

- a. In re Douglas Wright, case number 14-05197-LT7;
- b. In re Gregory and Tyra Droegemueller, case number 14-05005-MM13;
- c. In re Robert Gaffney, case number 14-05764-CL13;
- d. In re Jennifer Volden, case number 14-05859-CL13;
- e. In re Brian Pigott, case number 14-01965-LT13;
- f. In re Teodoro Aurelio Lozano, case number 14-06464-MM7;
- g. In re Anna Jennings, case number 14-06465-LT7;
- h. In re Karen and Daren Daganasol, case number 14-03293-LA13;
- i. In re Danielle and Ulysses Dickerson, case number 14-02997-LT7;
- j. In re Sheila Cohen, case number 14-06589-LT13;
- k. In re Roberto and Socorro Marrujo, case number 11-02068-MM13;

- l. In re Concepcion Ibarra, case number 14-01520-LT13;
- m. In re Jose and Florina Bravo, case number 14-01962-MM13;
- n. In re Oscar Monarrez, case number 14-02609-CL7;
- o. In re Norma Valdez, case number 14-02610-MM7;
- p. In re Carolina Ruiz, case number 14-02611-CL7;
- q. In re Jose and Leticia Pina Jimenez, case number 14-02613-MM13;
- r. In re Policarpo Navarro, case number 14-03003-CL7;
- s. In re Julio Felix, case number 14-04882-MM7;
- t. In re Efrain Flores, case number 14-06462-LA7;
- u. In re Amilkar Pena, case number 14-06463-CL7; and
- v. In re Raul Perez, case number 14-06466-MM7.

Respondent did not provide notice of his suspension to opposing counsel in the above matters or file a copy of such notice with the court in those matters, as required by rule 9.20(a)(4) and the disciplinary order.

Respondent also failed to file with the clerk of the State Bar Court by the August 18, 2014, deadline the declaration required under subdivision (c) of rule 9.20. As a result, on August 28, 2014, the Office of Probation mailed a letter to Respondent, notifying him that he had failed to file a rule 9.20 compliance declaration by that deadline. Respondent received this letter.

On September 8, 2014, Respondent filed a purported rule 9.20 compliance declaration. This declaration, however, was “rejected” by the Office of Probation because Respondent had declared that he had provided by first-class mail the notice required under subdivision (a) of rule 9.20 to all clients and co-counsel in pending matters. Rule 9.20 requires that the notice be sent by certified or registered mail, rather than merely by first-class mail. On September 9, 2014, the

Office of Probation mailed a letter to Respondent, notifying him that his rule 9.20 compliance declaration had been rejected. Respondent received this letter.

On September 29, 2014, Respondent filed a new rule 9.20 compliance declaration, in which Respondent falsely stated that he had provided the notice required under subdivision (a) of rule 9.20 to all clients and co-counsel in pending matters by certified mail, return receipt requested. However, Respondent did not state whether he had provided the required notice to all opposing counsel and filed a copy of such notice with the court in all pending matters. Instead, he falsely stated that he did not represent any clients in any such matters pending on the date that the Supreme Court order was filed.

Case No. 14-N-05138 (Rule 9.20 Matter)

Count 1 - Violation of California Rules of Court, Rule 9.20

Respondent has stipulated, and this court finds, that he is culpable of willfully violating his obligation to comply with the requirements of rule 9.20, subdivisions (a) and (c), of the California Rules of Court.

Count 2 – Section 6106 [Moral Turpitude – Misrepresentation]

Section 6106 provides: “The commission of any act involving moral turpitude, dishonesty or corruption . . . constitutes a cause for disbarment or suspension.” For purposes of State Bar disciplinary proceedings, moral turpitude is “any crime or misconduct reflecting dishonesty, particularly when committed in the course of practice . . .” (*Read v. State Bar* (1991) 53 Cal.3d 394, 412.) It is well-established that acts of moral turpitude include omissions, concealment and affirmative misrepresentations. (*Grove v. State Bar* (1965) 63 Cal.2d 312, 315.) “No distinction can . . . be drawn among concealment, half-truth, and false statement of fact.” (*In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166, 174.)

Respondent has stipulated, and this court finds, that on September 8, 2014, and September 29, 2014, Respondent filed with the Clerk of the State Bar Court declarations of compliance with rule 9.20 of the California Rules of Court that falsely reported to the State Bar Court that Respondent had fully complied with rule 9.20(a) of the California Rules of Court, when Respondent knew, or was grossly negligent in not knowing, that he had failed to comply with rule 9.20(a) of the California Rules of Court. Respondent has further stipulated, and this court finds, that those misrepresentations by him constituted acts of moral turpitude, in willful violation of the prohibition of section 6106.

Case No. 14-O-04411 (Nordquist Matter)

Pursuant to rule 9010 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Southern District of California, civil rule 83.3 of the Local Civil Rules of Practice for the United States District Court for the Southern District of California, and rule 9010 of the Federal Rules of Bankruptcy Procedure, Respondent was required to be an active member in good standing of the State Bar of California in order to practice law in the Bankruptcy Court.

On July 23, 2014, Respondent appeared at a meeting of creditors in the Bankruptcy Court on behalf of Respondent's client, William Nordquist (Nordquist), in case number 14-04212-CL7. At the hearing, Respondent held himself out as appearing on behalf of Nordquist and attempted to go forward with the hearing until opposing counsel, Suzanne Mindlin (Mindlin), interrupted Respondent, notified the trustee that Respondent was suspended from the practice of law, and objected to Respondent's appearance at the hearing. Respondent then falsely represented to the trustee that he was unaware that he was suspended and stated, "I have an issue with my MCLE that I'm working out... ." Respondent further stated "my understanding was I was being [...] stayed or not issued at this point but I will have to look into that."

On July 25, 2014, Mindlin submitted a complaint to the State Bar regarding Respondent's appearance at the July 23, 2014 meeting of creditors while suspended.

On August 22, 2014, Respondent filed a document entitled "Amendment to Schedule A & B – Schedule of Real or Personal Property..." on behalf of Nordquist in case number 14-04212-CL7. The document bears Respondent's electronic signature and is dated August 21, 2014.

On August 26, 2014, Mindlin's co-counsel in case number 14-04212-CL7, Stanley Tomlinson (Tomlinson), complained to the State Bar that Respondent was continuing to practice law in the *Nordquist* matter. Specifically, Tomlinson indicated that Respondent had filed documents after appearing at the July 23, 2014 meeting of creditors. Tomlinson further indicated Respondent had never provided notice of his suspension.

On September 23, 2014, the State Bar sent a letter to Respondent, requesting that he respond to the allegations made by Mindlin and Tomlinson and provide proof of his compliance with rule 9.20(a) of the California Rules of Court.

On January 6, 2015, Respondent sent a letter to the State Bar, indicating Nordquist was aware of Respondent's suspension and "[t]he appearance on July 23, 2014 did not go forward because I was suspended, and I requested time for the client to retain other counsel." In actual fact, Nordquist was only first notified of Respondent's suspension when Mindlin brought it up at the July 23, 2014 meeting of creditors.

In his response to the State Bar inquiry, Respondent further indicated that the document filed by Respondent on August 22, 2014 was already prepared prior to the beginning of Respondent's suspension and that Respondent's staff filed it at no cost to Nordquist.

Respondent did not provide Mindlin or Tomlinson with notice of Respondent's suspension, or file a copy of such notice with the Bankruptcy Court, as required by rule 9.20(a) and Supreme Court order number S217569.

Respondent held himself out as entitled to practice law, and he actually practiced law in the Bankruptcy Court, when to do so was in violation of the regulations of the profession in the Bankruptcy Court, by performing the following acts:

- a. On July 23, 2014, appearing at a meeting of creditors on behalf of Respondent's client, Nordquist, in case number 14-04212-CL7; and
- b. On August 22, 2014, filing a document entitled "Amendment to Schedule A & B – Schedule of Real or Personal Property..." on behalf of Respondent's client, Nordquist, in case number 14-04212-CL7, which bears Respondent's electronic signature and is dated August 21, 2014.

When Respondent performed the preceding acts, he knew, or was grossly negligent in not knowing, that to do so was in violation of the regulations of the profession in the Bankruptcy Court.

Count 3 – Rule 1-300(B) [Unauthorized Practice of Law in Another Jurisdiction]

Rule 1-300(B) of the California Rules of Professional Conduct provides: "A member shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction." Respondent has stipulated, and this court finds, that Respondent's conduct, as set forth above, constituted a willful violation of that rule.

Count 4 – Section 6106 [Moral Turpitude – Misrepresentation]

In this count, the State Bar alleges that Respondent's unauthorized appearance at the meeting of creditors in the *Nordquist* matter was an act of moral turpitude on his part in willful violation of the prohibition of section 6106. This court agrees, concluding that Respondent had

actual knowledge of his suspended status prior to appearing at the meeting of creditors and was aware that he was not entitled to purport to act as Nordquist's attorney at that bankruptcy court proceeding.

Count 5 – Section 6106 [Moral Turpitude – Misrepresentation]

In this count, the State Bar alleges that when Respondent's misrepresentation to the trustee, that he did not have knowledge of the fact that he was not at that time an active member of the State Bar of California, was an act of moral turpitude, in willful violation of the prohibition of section 6106. This court agrees, concluding that Respondent had actual knowledge at the time that he was suspended and not entitled to make appearances in bankruptcy court proceedings.

Case No. 14-O-04786 (Judges' Complaint)

Between July 11, 2014 and August 19, 2014, Respondent filed 129 documents with the Bankruptcy Court on behalf of his clients in various matters while suspended. The documents filed by Respondent while he was suspended included:

a. On July 15, 2014, Respondent filed a document entitled "Balance of Schedules... with Certificate of Service" on behalf of his client, Douglas Wright, in case number 14-05197-LT7. The document bears Respondent's electronic signature dated July 15, 2014.

b. On July 15, 2014, Respondent filed a document entitled "Balance of Schedules... with Certificate of Service" on behalf of his clients, Gregory and Tyra Droegemueller, in case number 14-05005-MM13. The document bears Respondent's electronic signature dated July 15, 2014.

c. On July 20, 2014, Respondent filed documents entitled "Chapter 13 Voluntary Petition..." and "Declaration Re: Electronic Filing" on behalf of his client, Robert Gaffney,

which commenced case number 14-05764-CL13. The documents bear Respondent's electronic signature dated July 18, 2014.

d. On July 24, 2014, Respondent filed documents entitled "Chapter 13 Voluntary Petition..." and "Certificate of Credit Counseling for Debtor" and "Declaration Re: Electronic Filing" on behalf of his client, Jennifer Volden, which commenced case number 14-05859-CL13. The petition bears Respondent's electronic signature dated July 24, 2014 and the declaration bears Respondent's handwritten signature dated July 24, 2014.

e. On or about July 31, 2014, Respondent filed a document entitled "Ex Parte Motion to Extend Time to file lien strip motion" and an attached Declaration and Certificate of Service on behalf of Respondent's client, Concepcion Ibarra, in case number 14-01520-LT13. The document bears Respondent's electronic signature dated July 31, 2014;

f. On August 1, 2014, Respondent filed a document entitled "OPPOSITION/RESPONSE TO OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN/STATUS REPORT" on behalf of his client, Brian Pigott, in case number 14-01965-LT13. The document bears Respondent's electronic signature dated August 1, 2014. The text of the document indicates it was an opposition to the trustee's objection to confirmation, which was filed on July 14, 2014.

g. On August 7, 2014, Respondent filed documents entitled "Balance of Schedules..." and "Chapter 13 Statement of Current Monthly and Disposable Income" and "Initial Chapter 13 Plan" on behalf of his client, Jennifer Volden, in case number 14-05859-CL13. The balance and the initial plan both bear Respondent's electronic signature dated August 7, 2014.

h. On August 13, 2014, Respondent filed documents entitled "Chapter 7 Voluntary Petition..." and "Certificate of Credit Counseling for Debtor" and "Declaration Re: Electronic

Filing” on behalf of his client, Teodoro Aurelio Lozano, which commenced case number 14-06464-MM7. The petition bears Respondent’s electronic signature dated August 13, 2014, and the declaration bears Respondent’s handwritten signature dated August 8, 2014.

i. On August 13, 2014, Respondent filed documents entitled “Chapter 7 Voluntary Petition...” and “Certificate of Credit Counseling for Debtor” and “Declaration Re: Electronic Filing” on behalf of his client, Anna Jennings, which commenced case number 14-06465-LT7. The petition bears Respondent’s electronic signature, dated August 13, 2014, and the declaration bears Respondent’s handwritten signature, dated July 2, 2014.

j. On August 13, 2014, Respondent filed a document entitled “OPPOSITION TO JUDGMENT ON MOTION FOR RELIEF FOR LACK OF PROPER SERVICE ON DEBTORS” on behalf of his clients, Karen and Daren Daganasol, in case number 14-03293-LA13. The document bears Respondent’s electronic signature dated August 13, 2014. The text of the document indicates it was an opposition to a motion filed by a creditor on July 23, 2014.

k. On August 13, 2014, Respondent filed a document entitled “Reaffirmation Agreement Between Debtor and Wells Fargo” on behalf of his clients, Danielle and Ulysses Dickerson, in case number 14-02997-LT7. The document bears Respondent’s handwritten signature dated July 14, 2014.

l. On August 18, 2014, Respondent filed documents entitled “Chapter 13 Voluntary Petition...” and “Certificate of Credit Counseling for Debtor” and “Declaration Re: Electronic Filing” on behalf of his client, Sheila Cohen, which commenced case number 14-06589-LT13. The petition bears Respondent’s electronic signature dated August 18, 2014 and the declaration bears Respondent’s handwritten signature dated August 18, 2014.

m. On August 19, 2014, Respondent filed a document entitled “STATUS REPORT ON OPPOSITION TO TRUSTEE’S OBJECTION TO CONFIRMATION” on behalf of his

client, Brian Pigott, in case number 14-01965-LT13. The document bears Respondent's electronic signature dated August 19, 2014. The document provided a status report on the opposition filed by Respondent on August 1, 2014.

On July 22, 2014, Respondent appeared at a meeting of creditors in the Bankruptcy Court on behalf of his client, Julio Felix (Felix), in case number 14-04882-MM7. At the hearing, Respondent held himself out as appearing on behalf of Felix, went forward with the hearing, and represented Felix throughout the entirety of the hearing. At no point during the hearing did Respondent notify the trustee that Respondent was suspended from the practice of law.

On August 29, 2014, Bankruptcy Court Judges Laura Taylor, Louise DeCarl Adler, Margaret Mann, and Christopher Latham sent a letter to the State Bar. In their letter, the judges stated that Respondent had participated in numerous cases before them during his 90-day suspension, including commencing new bankruptcy cases and filing documents in preexisting cases. Attached to the letter was a list of cases Respondent had participated in while suspended, including eight new bankruptcy cases that Respondent filed between July 20, 2014, and August 18, 2014, as well as 129 documents Respondent had filed between July 11, 2014 and August 19, 2014. The judges sent a copy of their letter to Respondent, which Respondent received.

On September 8, 2014, Respondent sent a letter to the State Bar, responding to the allegations made by the Bankruptcy Court judges. Respondent stated "[w]hile it is true that several cases have been filed since my suspension, all cases were pending well prior to the suspension. I had been retained months, and in some cases more than a year prior to the suspension." Respondent indicated the fees were earned and the work performed prior to the suspension. Respondent characterized the filing of cases as "merely an administrative act." Respondent indicated that in each of the cases referenced by the Bankruptcy Court judges, either an appearance attorney or co-counsel had been arranged for. Respondent further stated "[s]ince

the suspension period, I have arranged for attorneys to appear for all these matters. I have not made any court appearances since the suspension, and have arranged for counsel to appear on matters with client's consent."

On September 26, 2014, the State Bar sent a letter to Respondent, requesting additional information, including more detailed responses to the allegations made by the Bankruptcy Court judges and evidence that he complied with rule 9.20 of the California Rules of Court.

On November 5, 2014, Respondent sent a letter to the State Bar with additional information regarding this matter. Respondent reaffirmed his prior response to the allegations made by the Bankruptcy Court judges. Respondent stated "I did not make appearances on any of these cases. In all such cases, an appearance attorney or co-counsel, depending on the circumstances, was being arranged for and paid by me to complete the case." Respondent indicated attorney Ben Embry was associated into all active cases that required more than an appearance. Respondent further stated "I also did not have any other filings during the suspension period, other than those listed in your letter." Respondent attached a copy of a general letter to his clients, dated September 22, 2014, informing them of his suspension, as well as copies of 13 certified mail receipts. None of the certified mail receipts corresponded to Respondent's clients William Nordquist, Gregory and Tyra Droegemueller, or Brian Pigott.

Count 6 – Rule 1-300(B) [Unauthorized Practice of Law in Another Jurisdiction]

As previously noted, rule 1-300(B) of the California Rules of Professional Conduct provides: "A member shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction."

Respondent has stipulated, and this court finds, that his conduct, as described above, constituted willful violations by him of rule 1-300(B).

Count 7 – Section 6106 [Moral Turpitude – Misrepresentation]

In this count, the State Bar alleges that Respondent's actions in filing the pleadings and documents in the above bankruptcy proceedings during the time that he was suspended from the practice of law constituted acts by him of moral turpitude. Respondent has stipulated, and this court finds, that Respondent's conduct, as described above, constituted acts of moral turpitude by him in willful violation of the prohibition of section 6106.

Count 8 – Section 6106 [Moral Turpitude – Misrepresentation]

In this count, the State Bar alleges that Respondent's three letters to the State Bar, described above, contained misrepresentations and represented acts of moral turpitude, in willful violation of the prohibition of section 6106.

Respondent has stipulated, and this court finds, that Respondent made the following misrepresentations to the State Bar during the course of its disciplinary investigation of this matter:

a. On September 8, 2014, Respondent sent a letter to the State Bar indicating Respondent had not made any court appearances since July 9, 2014, when Respondent knew, or was grossly negligent in not knowing, that Respondent had appeared at a meeting of creditors in the Bankruptcy Court on July 22, 2014 on behalf of Respondent's client, Julio Felix, in case number 14-04882-MM7;

b. On September 8, 2014, Respondent sent a letter to the State Bar indicating Respondent had not made any court appearances since July 9, 2014, when Respondent knew, or was grossly negligent in not knowing, that Respondent had appeared at a meeting of creditors in the Bankruptcy Court on July 23, 2014 on behalf of Respondent's client, William Nordquist, in case number 14-04212-CL7; and

c. On November 5, 2014, Respondent sent a letter to the State Bar indicating Respondent had not filed any documents with a court during his suspension other than the list of documents filed between July 11, 2014, and August 19, 2014, that was attached to the Bankruptcy Court judges' complaint, when Respondent knew, or was grossly negligent in not knowing, that on August 22, 2014, Respondent filed a document entitled "Amendment to Schedule A & B – Schedule of Real or Personal Property..." with the United States Bankruptcy Court for the Southern District of California on behalf of Respondent's client, William Nordquist, in case number 14-04212-CL7.

Respondent had also stipulated, and this court finds, that the above false statements by Respondent to the State Bar represented acts of moral turpitude in willful violation of the prohibition of section 6106.

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct,³ std. 1.5.) The court finds the following with respect to aggravating circumstances.

Prior Discipline

Respondent has been disciplined on one prior occasion.

On June 9, 2014, the California Supreme Court filed order S217569, which ordered that Respondent be suspended from the practice of law for one year, with execution of that period of suspension stayed, and placed on probation for one year subject to various conditions, including that he be suspended from the practice of law for the first 90 days of probation. The discipline was imposed in connection with a stipulation in State Bar Court case No. 13-O-10730, wherein Respondent acknowledged that he committed an act of moral turpitude in willful violation of

³ All further references to standard(s) or std. are to this source.

section 6106 by falsely reporting to the State Bar that he was in compliance with his Minimum Continuing Legal Education (MCLE) requirements when he knew that he was not. The misconduct was aggravated by Respondent's subsequent lack of candor to the State Bar during the disciplinary investigation. That misconduct was mitigated by Respondent's lack of any prior record of discipline and by Respondent's cooperation in resolving the disciplinary matter before trial.

Given the fact that Respondent's misconduct in the instant proceeding includes instances of Respondent making misrepresentations to the State Bar very soon after he had been disciplined for making other misrepresentations to the State Bar, this prior record of discipline is a significant aggravating factor. (Std. 1.5(a).)

Multiple Acts of Misconduct

Respondent is culpable of multiple acts of misconduct. This is also an aggravating factor. (Std. 1.5(b).)

Harm

Standard 1.5(f) provides as an aggravating circumstance that the member's misconduct significantly harmed a client, the public or the administration of justice. While it is likely that Respondent's conduct significantly harmed the administration of justice, the evidence received by the court fails to provide clear and convincing evidence of such harm. While counsel for the State Bar argued during closing argument that Respondent's conduct in appearing at the Nordquist meeting of creditors caused harm because the hearing could not go forward, a review of the transcript of that hearing reveals that the bankruptcy trustee had already stated that the hearing would need to be continued for a reason unrelated to Respondent's suspended status prior to the trustee being notified of his suspended status. (See Ex. 15, pp. 3-5.)

Mitigating Factors

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.)

Cooperation

Respondent entered into an extensive stipulation of facts and admitted at the commencement of trial his culpability for all eight counts of misconduct contained in the NDC. Such cooperation by Respondent is a mitigating factor. (Std. 1.6(e); see also *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [where appropriate, more extensive weight in mitigation is accorded those who admit to culpability as well as facts].)

Character Evidence/Community Service

Respondent presented good character declarations from six witnesses, including four attorneys and two former clients, who were aware of the full extent of Respondent's misconduct. These witnesses provided evidence regarding Respondent's good character, his fine qualities as an attorney, and his work in community and charitable activities and his pro bono activities. In addition, Respondent testified regarding his community service, including his past active involvement in the San Diego Bankruptcy Forum and his past efforts on behalf of various youth groups. Respondent is entitled to substantial mitigation credit for this character evidence. (Std. 1.6(f).) (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [testimony from members of bench and bar entitled to serious consideration because judges and attorneys have "strong interest in maintaining the honest administration of justice"]; *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [pro bono and community service as mitigating factor].)

Emotional/Physical Difficulties

Extreme emotional and/or physical difficulties may be considered mitigating where it is established by expert testimony that they were responsible for the attorney's misconduct.

Further, the evidence must be clear and convincing that the difficulties "no longer pose a risk that the member will commit misconduct." (Std. 1.6(d); *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 701-702.)

Respondent presented extensive and persuasive evidence regarding the significant physical and emotional problems caused by an unfortunate incident in September 2012, when Respondent was hit by a car in Mexico while changing a tire along the side of the road. As documented in medical records received in evidence in this proceeding, the physical injuries suffered by Respondent were significant, including a severely fractured leg; were very slow to heal; and resulted in both financial stress and major depression by Respondent.

Nonetheless, the evidence fails to be persuasive that these problems are a mitigating circumstance here. On one hand, there was no expert testimony or other persuasive evidence of the required nexus between these physical and emotional problems and Respondent's acts of misconduct here. On the other hand, if this court assumes there is a nexus between the past problems and Respondent's misconduct, there is no expert testimony or other persuasive evidence that the difficulties no longer pose a risk that the member will commit misconduct. Instead, the latest medical evidence was a letter from Kaiser Permanente to Respondent, dated July 31, 2015, written by a licensed social worker who was not Respondent's actual medical provider. In this letter, the author stated that Respondent had been seen at 15 psychotherapy appointments between January 7, 2015 and May 6, 2015; and concluded with the report that the "diagnostic impression given by the treating provider for those visits at [Respondent's] last session is as follows: Major Depressive Disorder, Recurrent, in partial remission[;] Anxiety

Disorder, NOS.” (Ex. 1001, p. 26.) Under such circumstances, Respondent is entitled to no mitigation under the standards or the case law. (See *In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131, 136.)

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) 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.) Although the standards are not binding, they are to be afforded great weight because “they promote the consistent and uniform application of disciplinary measures.” (*In re Silvertown* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 703.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Standard 1.7(a) provides that, when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended

sanction is to be the most severe of the different sanctions. In the present proceeding, the most severe sanctions for Respondent's misconduct are found in standards 2.10(a) [unauthorized practice of law while on disciplinary suspension], 2.11 [moral turpitude], and the standard actually contained in rule 9.20 of the California Rules of Court.

Standard 2.10(a) provides: "Disbarment or actual suspension is the presumed sanction when a member engages in the practice of law or holds himself or herself out as entitled to practice law when he or she is on actual suspension for disciplinary reasons or involuntary inactive enrollment under Business and Professions Code section 6007(b)-(e). The degree of sanction depends on whether the member knowingly engaged in the unauthorized practice of law."

Standard 2.11 provides: "Disbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice of law."

Rule 9.20(d) of the California Rules of Court states, in pertinent part: "A suspended member's willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation."

Application of any and all of these three guidelines to the facts of this case, coupled with a review of the applicable case law, makes clear that a disbarment is both appropriate and required to protect the public, the profession, and the courts from further misconduct.

In the first instance, Respondent's willful failure to comply with rule 9.20 is extremely serious misconduct for which disbarment is "the generally imposed sanction . . . particularly

when the wilful failure was as to the basic notice requirements” of the rule. *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527, 532-533, citing *Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131; *Powers v. State Bar* (1988) 44 Cal.3d 337, 342; *In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322, 332; *In the Matter of Grueneich* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 439; and *In the Matter of Pierce* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 382, 385; more recently see *In the Matter of Esau, supra*, 5 Cal. State Bar Ct. Rptr. at pp. 138-140, and cases discussed therein.)

A disbarment recommendation is made even more appropriate in this matter due to Respondent’s knowingly false misrepresentations to this court and the State Bar that he had previously complied with his rule 9.20 obligations. Both the Supreme Court and the Review Department of this court have emphasized the importance of a member being honest in dealing with the State Bar’s disciplinary process. Knowingly false statements made by a member to the State Bar have been described by the Supreme Court as “particularly egregious” and “may perhaps constitute a greater offense than misappropriation.” (*Borré v. State Bar* (1991) 52 Cal.3d 1047, 1053; *Chang v. State Bar* (1989) 49 Cal.3d 114, 128; *Warner v. State Bar* (1983) 34 Cal.3d 36, 44; *Olguin v. State Bar* (1980) 28 Cal.3d 195, 200; *Cain v. State Bar* (1979) 25 Cal.3d 956, 961; *Barreiro v. State Bar* (1970) 2 Cal.3d 912, 926; *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 282 [“deception of the State Bar may constitute an even *more serious offense* than the conduct being investigated”].) The fact that Respondent continued to seek to deceive the State Bar and others so soon after he had just been disciplined for comparable misconduct is of particular concern to this court.

Finally, the fact that Respondent sought to take advantage of his failure to comply with the notice obligations of rule 9.20(a) by continuing to hold himself out as an attorney authorized to practice law also buttresses this court’s conclusion that disbarment is necessary and

appropriate. Such conduct represents a flagrant disregard of the order of the California Supreme Court and an ongoing unwillingness to comply with the member's professional obligations. Worse, such indifference to the disciplinary process and authorities by the attorney results in an intolerable risk of harm to the public, the profession, and the courts. In such situations, disbarment becomes essential to protect others from such harm. That is clearly the situation here.

RECOMMENDED DISCIPLINE

Disbarment

The court recommends that Respondent **Edward Medina**, Member No. 204880, be disbarred from the practice of law in the State of California and that his name be stricken from the Roll of Attorneys of all persons admitted to practice in this state.

California Rules of Court, Rule 9.20

The court further recommends that Respondent be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in this matter.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Respondent must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds, and such payment is enforceable as provided under Business and Professions Code section 6140.5.


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ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), it is ordered that **Edward Medina**, Member No. 204880, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D)(1).)⁴

Dated: October 8, 2015.


DONALD F. MILES
Judge of the State Bar Court

⁴ An inactive member of the State Bar of California cannot lawfully practice law in this state. (Bus. & Prof. Code, § 6126, subd. (b); see also Bus. & Prof. Code, § 6125.) It is a crime for an attorney who has been enrolled inactive (or disbarred) to practice law, to attempt to practice law, or to even hold himself or herself out as entitled to practice law. (*Ibid.*) Moreover, an attorney who has been enrolled inactive (or disbarred) may not lawfully represent others before any state agency or in any state administrative hearing even if laypersons are otherwise authorized to do so. (*Benninghoff v. Superior Court* (2006) 136 Cal.App.4th 61, 66-73.)

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 8, 2015, I deposited a true copy of the following document(s):

DECISION INCLUDING DISBARMENT RECOMMENDATION AND
INVOLUNTARY INACTIVE ENROLLMENT ORDER

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

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

MARISOL OCAMPO
CENTURY LAW GROUP LLP
5200 W CENTURY BLVD #345
LOS ANGELES, CA 90045

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

SHANE MORRISON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 8, 2015.



Rose M. Luthi
Case Administrator
State Bar Court