

PUBLIC MATTER

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AUG 14 2015

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STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No.: 14-N-06382-PEM
)	
MARTIN BARNETT REINER,)	DECISION INCLUDING DISBARMENT
)	RECOMMENDATION AND ORDER OF
Member No. 144024,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
A Member of the State Bar.)	

Introduction¹

In this disciplinary proceeding, the Office of the Chief Trial Counsel of the State Bar of California (State Bar) charged respondent **Martin Barnett Reiner** with willfully violating California Rules of Court, rule 9.20. Specifically, the State Bar charged that by not filing a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), respondent failed to timely comply with the provisions of Supreme Court order no. S218700, requiring compliance with rule 9.20.

After consideration of the evidence, the court finds respondent culpable of willfully violating rule 9.20, and recommends to the Supreme Court that respondent be disbarred.

Significant Procedural History

The Office of the Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on February 19, 2015, and on March 11, 2015, respondent filed his response.

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



A one-day trial was held on June 2, 2015. The State Bar was represented by Sherell N. McFarlane. Respondent represented himself. Following closing arguments, the court took the matter under submission on June 2, 2015.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on December 11, 1989, and has been a member of the State Bar of California at all times since that date.

Case No. 14-N-06382 – Failure to Comply with 9.20

Facts

On March 19, 2014, the Review Department of the State Bar Court filed an opinion in case numbers 09-O-10207 and 10-O-08540, upholding the Hearing Department's culpability finding that respondent violated section 6103 of the Business and Professions Code in each of these cases, and recommending the discipline to be imposed upon respondent.

By Supreme Court order number S218700, filed on September 10, 2014, and effective October 10, 2014, the Supreme Court suspended respondent from the practice of law for two years, stayed, and placed respondent on disciplinary probation for two years on conditions, including actual suspension for six months and until he made specified restitution, among other things.

The Supreme Court order also required that respondent "comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivision (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order." Furthermore, the Supreme Court order warned respondent that his "[failure to do so may result in disbarment or suspension." The Supreme Court served a copy of the order on respondent at his official membership record address on the same date that the order was filed.

On September 24, 2014, the Office of Probation sent respondent a letter to his State Bar membership records address (official address) reminding him of the terms of the Supreme Court order, including his obligation to timely file a rule 9.20 declaration of compliance with the State Bar Court no later than November 19, 2014.

Respondent did not file a rule 9.20 declaration of compliance with the State Bar Court on or before November 19, 2014. Accordingly, on November 21, 2014, the Office of Probation sent respondent a letter to his official address notifying him that his rule 9.20 declaration was overdue and advising him to file it immediately with the court. A copy of this letter was also sent to respondent at his State Bar membership email address on that same date.

On November 24, 2014, respondent replied to the Office of Probation's November 21, 2014 email, indicating that he intended to respond to the communication by November 26, 2014. On December 1, 2014, respondent sent an email to his probation deputy in which he stated that the Supreme Court order imposing suspension on his law license was without legal validity and was obtained by an unlawful deprivation of his right to due process. On December 17, 2014, the Office of Probation sent another rule 9.20 non-compliance letter to respondent via U.S. mail and email.

As of June 2, 2015, respondent has failed to file a rule 9.20 declaration of compliance. Respondent maintains that he does not have to file the rule 9.20 declaration until he receives a ruling from the Ninth Circuit Court of Appeals, where he is challenging the validity of the orders forming the basis of the discipline imposed in S21870 as well as the disciplinary order. In fact, respondent has stated that he is being "lynched" by the California Supreme Court and the State Bar Court. He accuses both the California Supreme Court and the State Bar Court of corruption. Respondent's contentions were addressed by the Review Department's March 19, 2014 opinion. They are without merit and the court rejects them as well.

Conclusions

Count 1 – Failure to Obey Rule 9.20

Respondent failed to file a declaration of compliance as required by California Rules of Court, rule 9.20 and in conformity with the requirements of rule 9.20(c) with the clerk of the State Bar Court by November 19, 2014, as required by Supreme Court order number S218700. In failing to file a declaration of compliance respondent has willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys).

Aggravation²

Indifference Toward Rectification/Atonement (Std. 1.5(g).)

Respondent did not comply with the Supreme Court's disciplinary order by filing a rule 9.20 declaration of compliance despite reminders from the Office of Probation to do so.

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

Respondent has one prior disciplinary record. As previously noted, he was placed on actual suspension for six months, among other things, for willfully disobeying three court orders issued by workers' compensation administrative law judges between 2007 and 2010. In aggravation, the court found multiple acts of misconduct, indifference and misconduct surrounded by bad faith. The sole mitigating factor was no prior discipline.

Mitigation

No mitigating factors are found.

Discussion

Respondent has demonstrated an unwillingness to comply with the professional obligations and rules of court imposed on California attorneys although he has been given

² All references to standards (std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct in effect until June 30, 2015.

opportunities to do so. Respondent argues that the Supreme Court order is invalid and as such he has no duty to comply with the order. Respondent's willful failure to comply with rule 9.20(c) is extremely serious misconduct for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Such failure undermines its prophylactic function in ensuring that all concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187.)

Therefore, respondent's disbarment is necessary to protect the public, the courts and the legal community, to maintain high professional standards and to preserve public confidence in the legal profession. It would undermine the integrity of the disciplinary system and damage public confidence in the legal profession if respondent were not disbarred for his willful disobedience of the Supreme Court order.

Recommendations

It is recommended that respondent **Martin Barnett Reiner**, State Bar Number 144024, be disbarred from the practice of law in California and respondent's name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

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

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Order of Involuntary Inactive Enrollment

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: August 14, 2015



PATE. 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 14, 2015, I deposited a true copy of the following document(s):

DECISION INCLUDING DISBARMENT RECOMMENDATION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

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

MARTIN B. REINER
ATTORNEY AT LAW
9025 WILSHIRE BLVD #301
BEVERLY HILLS, CA 90211

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

Sherell N. McFarlane, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 14, 2015.


Laurretta Cramer
Case Administrator
State Bar Court