

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

FILED
OCT 08 2014
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of) Case No.: 14-PM-03855-DFM
)
INDIA SHERRYL THOMPSON,)
) ORDER GRANTING MOTION TO
) REVOKE PROBATION AND FOR
) INVOLUNTARY INACTIVE
) ENROLLMENT
)
A Member of the State Bar.)

INTRODUCTION

On July 11, 2014, the State Bar Office of Probation, represented by Terrie Goldade, filed a motion pursuant to Business and Professions Code sections 6093¹ and rules 5.310 et seq. of the Rules of Procedure of the State Bar² to revoke the probation of Respondent **India Sherryl Thompson** (Respondent). On July 31, 2014, Respondent filed a written response to the motion. Neither side requested an opportunity to cross-examine any individual executing declarations in the matter.

A hearing on the motion was held on September 10, 2014.

For the reasons stated below, the court finds, by a preponderance of the evidence, that Respondent willfully failed to comply with the terms of her probation. (Section 6093, subd. (c).) As a result, the court grants the motion of the Office of Probation to revoke Respondent's

¹Future references to section(s) are to this source.

²Future references to rule(s) are to this source.



probation and recommends, among other things, that the previously-ordered stay of suspension be lifted and that a new two-year stayed suspension and two-year period of probation, with conditions, be imposed, including actual suspension for two years and until Respondent complies with Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct standard 1.2(c)(1).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Jurisdiction

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

Probation Violations

On December 19, 2012, the State Bar Court filed an order approving the stipulation of the parties in State Bar case no. 12-O-11622 and recommending discipline including two years' stayed suspension and three years' probation on conditions including 90 days' actual suspension.

On March 7, 2013, the California Supreme Court filed an order, S207562, accepting the State Bar Court's discipline recommendation and ordering Respondent to comply, *inter alia*, with the following conditions of probation:

1. Submit 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 she has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period (quarterly report);
2. Refund \$750 to Christopher Williams prior to the date Respondent's first quarterly report is due and provide proof of payment to the Office of Probation in her first quarterly report;

3. Within one year of the effective date of the discipline, provide to the Office of Probation satisfactory proof of Respondent's attendance at a session of the State Bar Ethics School and passage of the test given at the end of that session; and
4. Within 12 months of the effective date of the discipline, submit to the Office of Probation satisfactory evidence of completion of no less than six hours of Minimum Continuing Legal Education (MCLE) courses in law office management, attorney-client relations and/or general legal ethics.

The Supreme Court order became effective 30 days after March 7, 2013. (Cal. Rules of Court, rule 9.18(a).) It was properly served on Respondent.

On March 28, 2013, the Office of Probation wrote a letter to Respondent, reminding her of the terms and conditions of the impending suspension and probation imposed pursuant to the Supreme Court's order and enclosing, among other things, copies of the Supreme Court's order, the probation conditions portion of the stipulation, instruction sheets and forms to use in submitting quarterly reports, and a schedule of the dates in 2013 that the State Bar Ethics School would be conducted.

The Office of Probation alleges in its motion to revoke Respondent's probation that she willfully violated all four of the conditions of probation summarized above. The court finds the following with respect to those claimed violations.

Failure to Submit Quarterly Reports on a Timely Basis

Respondent failed to submit on a timely basis the quarterly reports due on July 10, 2013; April 10, 2014; and July 10, 2014. The report due by July 10, 2013, was filed on July 17, 2013. The April 10, 2014 report was filed on April 28, 2014. The report due on July 10, 2014, was filed on July 17, 2014, after the motion initiating this proceeding was filed. No explanation for

the untimely filings was offered. The court concludes that Respondent's failure to file the above four reports constituted willful violations of her probation conditions.

Failure to Timely Make Restitution

Respondent was late in paying \$750 in restitution owed to her former client Christopher Williams in willful violation of her probation conditions. The payment to Mr. Williams and proof thereof were due by July 10, 2013. She paid him the full amount of \$750 by check issued on November 15, 2013. While Respondent indicates that her late payment resulted from financial hardship, she made no attempt to obtain an extension or other relief due to any such financial hardship.

Failure to Take the State Bar Ethics School

Respondent was to have completed this requirement by April 6, 2014, but has yet to enroll in the State Bar Ethics School.

This condition of probation, that a disciplined member must take and pass the State Bar Ethics School, is an important component to this court assuring itself that a previously errant member, if allowed to continue to practice law, will both know and honor her or her professional obligations in the future. The failure of a recently disciplined attorney to comply with this particular condition of probation is especially troubling. It not only indicates that the attorney feels no urgency to be reminded of the rules of professional conduct but also shows that the individual remains indifferent to complying with those professional obligations, notwithstanding the sting of the recent discipline.

Respondent also attributes her failure to enroll in the class to financial hardship. Her explanation falls short of justifying her conduct, however. Although aware that the enrollment fee might be waived, Respondent has taken no steps to ascertain whether such a waiver can be effected. Further, the record does not show an attempt by Respondent to obtain an extension or

other relief due to financial hardship. Her lack of attention to this condition of probation constitutes a willful violation by her of that condition.

Noncompliance with MCLE Requirement

Respondent was to have completed the six hours of MCLE courses by April 6, 2014. The evidence supports a finding of culpability of noncompliance with this probation condition. There is no indication that Respondent attempted to comply with or modify this requirement due to financial hardship or otherwise.

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b).)³ The court finds the following with regard to aggravating factors.

Prior Discipline

In aggravation, Respondent has two priors record of discipline. (Std. 1.2(b)(i).)

As noted above, in S207562 (State Bar case No. 12-O-11622), filed March 7, 2013, the parties stipulated to Respondent's culpability of misconduct involving three different client matters. Her misconduct included willful violations of rule 3-110(A) of the Rules of Professional Conduct [failure to act with competence] (three counts); and sections 6125 and 6126 [unauthorized practice of law] (two counts). Respondent received, among other things, two years' stayed suspension and three years' probation, on conditions including 90 days' actual suspension.

On November 19, 2001, in S100795 (State Bar case Nos. 97-O-18160; 98-O-02715), the Supreme Court imposed discipline, including one year's stayed suspension and three years' probation. Respondent's misconduct in one client matter included willful violations of section

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

6068, subdivision (m) [failure to keep client informed of significant developments], section 6068, subdivision (i) [failure to cooperate] and rule 3-110(A) of the Rules of Professional Conduct [failure to act with competence].

Multiple Acts of Misconduct

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

Indifference

Respondent's failure to comply with the probation conditions, after being reminded by the Office of Probation, demonstrates indifference toward rectification of or atonement for the consequences of her misconduct. (Std. 1.2(b)(v).)

Mitigating Circumstances

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.2(e).) The court finds the following with regard to mitigating factors.

Medical Problems

Although Respondent argues that her present emotional problems are a mitigating factor, the court does not find Respondent's emotional problems to be a mitigating factor in this matter. There was no expert testimony offered in support of Respondent's contention; no demonstrated nexus between her emotional problems and the misconduct; and no evidence that Respondent's claimed emotional issues have now been resolved.

DISCUSSION

Section 6093 authorizes the revocation of probation for a violation of a probation condition. Standard 1.7 requires that the court recommend a greater discipline in this matter than that imposed in the underlying disciplinary proceeding. The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violation and Respondent's

recognition of her misconduct and her efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.)

The number and nature of Respondent's violations of four probation conditions make clear that she remains insufficiently concerned about operating "within the lines" of her professional obligations. No explanation was offered for the untimely filings of the quarterly reports. While Respondent may have financial difficulties, the record does not show any attempts by her to modify the probation conditions or otherwise seek relief from timely compliance due to financial hardship. Under such circumstances, the court concludes that her original probation should be revoked and the two-year suspension, previously stayed, should now be imposed and the court so recommends. (*Potack v. State Bar* (1991) 54 Cal.3d 132; *Barnum v. State Bar* (1990) 52 Cal.3d 104, 107; *In the Matter of Potack, supra*, 1 Cal. State Bar Ct. Rptr. at p. 540.) Actual suspension for two years or more requires proof satisfactory to the State Bar Court of rehabilitation, fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1).

RECOMMENDED DISCIPLINE

Probation Revocation/Actual Suspension/Probation

For all of the above reasons, the court recommends that the probation of Respondent **India Sherryl Thompson**, Member No. 143787, previously ordered in Supreme Court matter S207562 (State Bar Court case No. 12-O-11622), be revoked; that the previous stay of execution of the suspension be lifted; that Respondent be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that Respondent be placed on probation⁴ for a period of two years subject to the following conditions:

⁴ 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.)

Conditions of Probation

1. Respondent **India Sherryl Thompson** is suspended from the practice of law for a minimum of the first two years of probation (with credit given for the period of involuntary inactive enrollment), and Respondent will remain suspended until she provides satisfactory proof to the State Bar Court of her rehabilitation, fitness to practice and present learning and ability in the general law 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 the conditions of this probation.

3. Respondent must maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation, her current office address and telephone number or, if no office is maintained, an address to be used for State Bar purposes. (Bus. & Prof. Code, § 6002.1, subd. (a).) Respondent must also maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation, her current home address and telephone number. (See Bus. & Prof. Code, § 6002.1, subd. (a)(5).) Respondent's home address and telephone number will not be made available to the general public. (Bus. & Prof. Code, § 6002.1, subd. (d).) Respondent must notify the Membership Records Office and the Office of Probation of any change in any of this information no later than 10 days after the change.

4. Respondent must report, in writing, to the State Bar's Office of Probation no later than January 10, April 10, July 10 and October 10 of each year or part thereof in which Respondent is on probation (reporting dates).⁵ However, if Respondent's probation begins less than 30 days before a reporting date, Respondent may submit the first report no later than the second reporting date after the beginning of her probation. In each report, Respondent must

⁵ To comply with this requirement, the required report, duly completed, signed and dated, must be received by the Office of Probation on or before the reporting deadline.

state that it covers the preceding calendar quarter or applicable portion thereof and certify by affidavit or under penalty of perjury under the laws of the State of California as follows:

(a) in the first report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation since the beginning of probation; and

(b) in each subsequent report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during that period.

During the last 20 days of this probation, Respondent must submit a final report covering any period of probation remaining after and not covered by the last quarterly report required under this probation condition. In this final report, Respondent must certify to the matters set forth in subparagraph (b) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California.

5. Subject to the proper or good faith assertion of any applicable privilege, Respondent must fully, promptly, and truthfully answer any inquiries of the State Bar's Office of Probation that are directed to Respondent, whether orally or in writing, relating to whether Respondent is complying or has complied with the conditions of this probation.

6. Within one year after the effective date of the Supreme Court order in this matter, Respondent must attend and satisfactorily complete the State Bar's Ethics School and provide satisfactory proof of such completion to the State Bar's Office of Probation. This condition of probation is separate and apart from Respondent's California Minimum Continuing Legal Education (MCLE) requirements; accordingly, Respondent is ordered not to claim any MCLE credit for attending and completing this course. (Rules Proc. of State Bar, rule 3201.)

7. Within one year after the effective date of discipline, Respondent must submit to the Office of Probation satisfactory evidence of completion of six hours of MCLE-approved courses in law office management, attorney-client relations and/or general legal ethics. This condition of probation is separate and apart from Respondent's California MCLE requirements; accordingly, Respondent is ordered not to claim any MCLE credit for attending and completing this course. (Rules Proc. of State Bar, rule 3201.)

8. Respondent's probation will commence on the effective date of the Supreme Court order imposing discipline in this matter.

California Rules of Court, Rule 9.20

The court does not recommend that Respondent be ordered to comply with rule 9.20 of the California Rules of Court, 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 Supreme Court order in this matter as she did so in connection with the Supreme Court's order of March 7, 2013 in S207562⁶ and she has been ineligible to practice law in California since April 6, 2013, the effective date of that disciplinary order.

MPRE

Because Respondent was ordered by the Supreme Court to take and pass the MPRE in its order of March 7, 2013, the court does not recommend that Respondent be further ordered in this matter to take and pass that examination.

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.

⁶ The court judicially notices its records which indicate that Respondent filed an amended California Rules of Court, rule 9.20 declaration on June 3, 2013. (Evid. Code, §452, subd. (d).)

ORDER REGARDING INACTIVE ENROLLMENT

It is hereby ORDERED that respondent **India Sherryl Thompson**, Member No. 143787, be involuntarily enrolled as an inactive member of the State Bar of California pursuant to Business and Professions Code section 6007, subdivision (d). This enrollment shall be effective three days following service of this order. 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 also ordered that Respondent's inactive enrollment be terminated as provided by Business and Professions Code section 6007, subdivision (d)(2).

Finally, it is recommended that the period of Respondent's inactive enrollment pursuant to this order be credited toward her period of actual suspension, as recommended above. (Bus. & Prof. Code, § 6007, subd. (d)(3).)

Dated: October 8, 2014



DONALD F. MILES
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 Los Angeles, on October 8, 2014, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO REVOKE PROBATION AND FOR
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 Los Angeles, California, addressed as follows:

INDIA S. THOMPSON
INDIA S. THOMPSON, ESQ.
5133 BABCOCK AVE
VALLEY VILLAGE, CA 91607

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

TERRIE GOLDADE, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 8, 2014.



Rose M. Luthi
Case Administrator
State Bar Court