

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 14-PM-04338-LMA
)	
SWAZI ELKANZI TAYLOR,)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION AND ORDER OF
Member No. 237093)	INACTIVE ENROLLMENT
)	
A Member of the State Bar.)	

Introduction

On August 13, 2014, the Office of Probation of the State Bar of California (Office of Probation) filed a motion to revoke the probation of respondent Swazi Elkanzi Taylor. Although he was properly served with the motion to revoke probation by certified mail, return receipt requested, and by regular mail at his State Bar membership records address, respondent did not file a response in this proceeding. On April 20, 2015, this court issued an order submitting the motion for decision, serving respondent with a copy of that order.

Good cause having been shown, the motion to revoke respondent’s probation is granted and discipline is recommended as set forth below.

Findings of Fact and Conclusions of Law

On February 27, 2013, the California Supreme Court filed an order, S207915, accepting the State Bar Court’s discipline recommendation in case nos. 10-O-05171, et al., in which respondent was found culpable of nine counts of misconduct, mainly involving the collection of illegal fees in eight loan modification matters. The discipline included a two-year stayed suspension, two years’ probation, and a minimum actual suspension of six-months and until

payment of restitution. This order was properly served on respondent and became effective on March 29, 2013.¹

On March 18, 2013, the Office of Probation sent respondent a reminder letter regarding the probation conditions at his membership records address. This letter was not returned as undeliverable or for any other reason.

On April 12, 2013, the Office of Probation conducted a meeting with respondent to review the terms and conditions of his probation. Respondent verified he had received the March 18, 2013 letter. All conditions and deadlines were reviewed with respondent, including Ethics School and quarterly reporting. Respondent was reminded that if he could not timely meet his deadlines, he could file a motion.

Between January 31 and July 17, 2014, the Office of Probation called respondent on multiple occasions at his membership records telephone number and at an alternative telephone number. On April 25, 2014, the Office of Probation was able to leave a message for respondent requesting a return call, but he did not respond.

Despite these efforts to make respondent aware of the conditions of his probation and to secure his compliance with them, respondent did not comply with the following probation conditions:

(a) During the period of probation, respondent was required to submit written quarterly reports 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 was in effect, stating under penalty of perjury that he had complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period. Respondent filed his October 10, 2013 and April 10, 2014 quarterly reports late, on

¹ In 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.)

October 16, 2013 and April 25, 2014, respectively. In addition, respondent did not file his July 10, 2014 quarterly report.

(b) Respondent was ordered to provide the Office of Probation, by March 29, 2014, satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. Respondent, however, failed to provide evidence of completion of Ethics School and passage of the test given at the end of that session to the Office of Probation.

Aggravation

Prior Discipline

Respondent's prior record of discipline is a factor in aggravation. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,² std. 1.5(a).) Respondent has one prior imposition of discipline.

In the underlying matter, the Supreme Court filed an order in case no. S207915 (State Bar Court case nos. 10-O-05171, et al.) suspending respondent from the practice of law for two years, staying execution of the suspension, and placing him on probation for two years, including a minimum period of actual suspension of six months and until payment of restitution. In this nine-count loan modification matter, respondent was found to have charged illegal fees to eight clients. He was also found culpable of failing to provide a statutorily required notice to one of his clients. In mitigation, respondent presented evidence of good character. In aggravation, respondent committed multiple acts of misconduct, caused significant harm to his clients, and demonstrated a lack of insight.

Multiple Acts of Misconduct

Respondent's violations of the terms of his disciplinary probation constitute multiple acts of misconduct. (Std. 1.5(b).)

² All further references to standard(s) or std. are to this source.

Mitigation

It was respondent's burden to establish mitigating factors. No mitigating factors were shown by the evidence presented to this court.

Discussion

The extent of the discipline to be recommended is dependent, in part, on the seriousness of the probation violation, the member's recognition of the misconduct, and the member's prior 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 concludes that actual suspension for a minimum of two years and until payment of restitution and satisfactory proof of fitness to practice and learning and ability in the general law, as requested, is both required and sufficient to protect the public in this instance. Respondent was aware of the terms and conditions of his disciplinary probation, yet did not comply with them despite reminders from the Office of Probation. His failure to participate in this proceeding is also a matter of considerable concern to this court.

Recommended Discipline

Accordingly, the court recommends as follows:

1. That the probation of respondent Swazi Elkanzi Taylor previously ordered in Supreme Court case no. S207915 (State Bar Court case no. 10-O-05171, et al.) be revoked;
2. That the previous stay of execution of the suspension be lifted; and
3. That respondent be actually suspended from the practice of law for a minimum of two years, and he will remain suspended until the following requirements are satisfied:
 - i. He makes restitution to the following payees (or reimburses the Client Security Fund, to the extent of any payment from the fund to the payees, in accordance with Business and Professions Code section 6140.5) and furnishes proof to the State Bar's Office of Probation in Los Angeles:
 - (1) Rosane Castro in the amount of \$2,500 plus 10 percent interest per year from November 23, 2009;

- (2) Alan Sukin in the amount of \$3,600 plus 10 percent interest per year from September 30, 2010;
 - (3) James Croxton in the amount of \$1,300 plus 10 percent interest per year from April 22, 2010;
 - (4) Wesley Harris and Elisa Torres in the amount of \$3,750 plus 10 percent interest per year from May 24, 2010;
 - (5) Harshadrai Kapadia in the amount of \$1,400 plus 10 percent interest per year from April 4, 2010; and
 - (6) Rick Bonneville in the amount of \$1,800 plus 10 percent interest per year from April 20, 2010.
- ii. He provides proof to the satisfaction of the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the general law pursuant to standard 1.2(c)(1).

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.

Multistate Professional Responsibility Examination

It is not recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination as he was previously ordered to do so in Supreme Court case no. S207915.

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.

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Order of Involuntary Inactive Enrollment

Respondent is ordered to be involuntarily enrolled inactive under Business and Professions Code section 6007, subdivision (d)(1).³ This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: June _____, 2015

LUCY ARMENDARIZ
Judge of the State Bar Court

³Any period of involuntary inactive enrollment will be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)