

PUBLIC MATTER

FILED 

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STATE BAR COURT CLERK'S OFFICE
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STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 15-O-14369-LMA
)	
ELLIS PARK,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 214303.)	ENROLLMENT
_____)	

Introduction¹

In this contested disciplinary proceeding, respondent Ellis Park (Respondent) is charged with five counts of misconduct stemming from a single client matter. The charged misconduct includes: (1) misappropriation; (2) failing to promptly notify client of receipt of client funds; (3) failing to account; (4) failing to return disputed client funds to trust account; and (5) failing to maintain client funds in trust.

This court finds, by clear and convincing evidence, that Respondent is culpable on four of the five counts of misconduct. Based on the nature and extent of culpability, as well as the applicable aggravating and mitigating circumstances, in conjunction with meeting the goals of attorney discipline, the court recommends that Respondent be disbarred from the practice of law and that he make restitution to his former client.

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.



Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on March 29, 2016. Respondent did not initially file a response to the NDC and his default was entered on May 12, 2016.

Pursuant to his default, the State Bar, on August 16, 2016, filed a petition seeking Respondent's disbarment. This matter was submitted for decision on September 14, 2016.

On September 21, 2016, Respondent filed a motion seeking to set aside the default.² On October 5, 2016, the court issued an order vacating submission and setting aside the default.

On October 21, 2016, Respondent filed his response to the NDC. Respondent addressed each paragraph of the NDC, providing – for the most part – the following response:

Paragraph [] consists of legal conclusions and State Bar's asserted interpretation of a statute and several regulations, to which no response is required. To the extent a response is required, Respondent is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

On November 21, 2016, the court issued an order scheduling trial to begin January 18, 2017. This order also stated that the parties' pretrial statements and proposed exhibits were due January 3, 2017.

On January 3, 2017, the State Bar filed its pretrial statement. Respondent did not file a pretrial statement by January 3, 2017, or at any point thereafter.

On January 9, 2017, the parties appeared for the pretrial conference. At the pretrial conference, Respondent made an oral request for a 60-day continuance,³ which was denied. The

² In this motion, Respondent stated that he first learned about his default three months earlier, on June 15, 2016.

³ Respondent stated he was in incredible pain, but was still working as an attorney because he needed to make an income.

court instructed Respondent to provide the State Bar with the names of his witnesses, their contact information, and any proposed exhibits by the end of the day. Respondent acknowledged this by repeatedly stating, "Done." Respondent then made an oral motion to recuse "based on bias and prejudice." That oral motion was denied, and the court instructed Respondent to file written motions.

On January 10, 2017, the State Bar filed a motion noting that Respondent did not provide the State Bar with his exhibits or an exhibit list, as ordered on January 9, 2017. Accordingly, the State Bar requested that the court issue an order precluding Respondent from offering documentary evidence. This motion was later denied.

On January 17, 2017, Respondent filed a motion to continue the trial set for the next day. Although the motion to continue was based on medical grounds, it did not include any medical evidence stating that Respondent could not proceed to trial that next day. The State Bar filed an opposition to the motion to continue. In its opposition, the State Bar noted, among other things, the serious nature of the present charges and that granting a continuance represented a significant threat to public protection.

On January 18, 2017, both parties appeared in court for the first day of the scheduled trial. The State Bar was represented by Deputy Trial Counsel Drew Massey (DTC Massey). Respondent represented himself. The court denied Respondent's January 17, 2017 motion to continue the trial. Respondent then made another oral motion to recuse, stating, among other things, that the court was trying to make him a scapegoat or someone to put on the cross. Respondent's oral motion to recuse was again denied. The court, however, told Respondent that he would be permitted a short continuance to put on his defense, but that the State Bar's portion of the trial would begin that day.

The State Bar objected again to the fact that Respondent had not turned over his exhibits, pretrial statement, or exhibit list, as ordered on January 9, 2017. The court again ordered Respondent to turn over his witness list with their contact information and exhibit list before the end of the day.

The trial then began and the State Bar called its first witness. Respondent objected to the first witness using an interpreter, stating that no interpreter was needed. This objection was overruled. Respondent then repeatedly objected to the way the court certified Korean interpreter interpreted the State Bar's questions and the complaining witness's testimony. Respondent's request for a different certified Korean interpreter was denied.

As the first witness testified, Respondent stated that he thought his blood sugar level was getting low. He added that he had not eaten breakfast and did not bring any of his medication to court. The court noted that Respondent seemed fine and was not having any trouble participating. Respondent was advised that the trial would continue, and the court would complete the testimony of the first witness. Respondent subsequently made an oral motion for reconsideration of the denial of the oral motion to recuse, which was denied.

Just before lunch, Respondent presented some medical paperwork and again asserted that the matter should be continued. The court reviewed the documents but did not see good cause to continue the matter. Respondent then said he was having a hypoglycemic episode and was going to "pick up now and go." The court took a lunch break and trial resumed in the afternoon. Respondent, however, did not appear. The State Bar was permitted to finish questioning its first witness, and the trial concluded for the day.

The court held a follow-up status conference on January 23, 2017. On that date, Respondent appeared and the court ordered that the trial continue on February 2, 2017.

On February 2, 2017, the parties appeared in court. Respondent made another motion to continue and provided the court with medical documentation indicating that he could only perform light duty for the next seven days. Respondent stated that he was in excruciating pain but acknowledged that he was still currently working as an attorney. Respondent also stated he was willing to sign a release for the State Bar to speak with his doctor. The court granted the motion to continue and set a status conference for February 13, 2017. The court instructed Respondent to provide the court with a doctor's declaration on or before February 13, 2017. The court also ordered the State Bar to speak with Respondent's doctor.

On February 10, 2017, the State Bar filed a status report. Respondent did not file a response. In the State Bar's status report, DTC Massey articulated, under penalty of perjury, all efforts made to obtain Respondent's signature on a doctor's release. Specifically, on February 2, 2017, Respondent agreed to wait 15 minutes after the hearing in the State Bar's lobby so that DTC Massey could prepare the release. Respondent, however, left the State Bar and did not wait. The State Bar subsequently emailed the release to Respondent and left him a telephone message, but Respondent never signed – or even acknowledged – the release.

On February 13, 2017, the State Bar filed a renewed motion to preclude Respondent from offering documentary evidence. In this motion, the State Bar stated that Respondent still had not turned over exhibits or an exhibit list. Respondent did not file a response to this motion.

On February 13, 2017, the court held the scheduled status conference. Both of the parties were present. Respondent did not provide the court with a declaration from his doctor, as instructed. The court ordered trial to resume on March 24, 2017.

On March 1, 2017, the court tentatively denied, without prejudice, the State Bar's renewed motion to preclude documentary evidence. Instead, the court issued an order

compelling Respondent to comply with the repeated orders of this court to provide the State Bar with his exhibits and exhibit list. Respondent was ordered to turn over his exhibits and exhibit list no later than March 13, 2017.

On March 14, 2017, the State Bar filed a second renewed motion to preclude Respondent from offering documentary evidence. In this motion, the State Bar stated that Respondent still had not turned over exhibits or an exhibit list. Respondent did not file a response to this motion.

Trial resumed on March 24, 2017. The State Bar concluded its case-in-chief relating to culpability. Respondent requested another continuance, for 90 days, before putting on his defense. Respondent stated, among other things, that he needed additional time to get various exhibits out of storage. The court granted Respondent a two-week continuance to April 7, 2017. Respondent was instructed, once again, to provide the State Bar with his exhibits and witnesses. Respondent objected, stating that he had conflicts on April 7, 2017. The court told Respondent that if he wanted to file a written motion to continue, the court would consider his motion as well as the State Bar's response. Respondent then asked again for more time, stating, "Why are you so mean? I mean what's the harm in giving me some more time. I mean you almost had me killed ... you contribute to my, you know, needless pain."

On March 28, 2017, the State Bar filed a third renewed motion to preclude Respondent from offering documentary evidence. In this motion, the State Bar stated that Respondent still had not turned over exhibits or an exhibit list. Respondent again did not file a response to this motion.⁴

⁴ Although the State Bar had a reasonable basis to request that Respondent be precluded from offering documentary evidence, the court ultimately denied all of those requests in order to provide Respondent every opportunity to present any evidence he had relating to his defense.

On April 6, 2017, Respondent filed another motion to continue the trial. Respondent's motion was based on stated medical issues as well as the fact that he had conflicting court appearances in the Orange County Superior Court.⁵ Respondent's motion did not contain a doctor's declaration or any other supporting evidence, aside from his own declaration. The court received this motion the day before trial, at 4:50 p.m. Due to the timing of the filing of the motion, the State Bar did not have a reasonable opportunity to review and respond to the motion to continue.

On April 7, 2017, Respondent appeared, but still did not produce any witnesses or exhibits. The court denied his April 6, 2017 motion to continue. The court instructed Respondent to begin presenting his defense. Respondent repeatedly requested additional time to present his case. Respondent then orally requested a stay pending interlocutory review, which was denied. Respondent then stated that the court was biased and prejudiced and requested a new trial. Respondent's oral request for a new trial was denied and his renewed oral request for recusal was stricken. Respondent then made his opening statement.

Following his opening statement, Respondent was instructed to call his first witness. Respondent stated that he wanted to call complaining witness James Park, who had previously testified in the State Bar's case-in-chief. This witness was not in court, and there was no evidence that Respondent had made any effort to subpoena him. Respondent then requested again that the trial be continued so he could make his conflicting appearances in the Orange County Superior Court.

⁵ In his declaration, Respondent inaccurately stated that he had not previously failed to appear for any State Bar Court hearings.

After his renewed motion to continue was denied, Respondent stated that he wished to call the undersigned as his first witness. Respondent had not subpoenaed the undersigned, and that request was denied.

Respondent then stated that he wanted to call the Supervising Judge of the Hearing Department to the stand. The Supervising Judge of the Hearing Department was not present in court, and there was no evidence that Respondent had subpoenaed this witness. Before the court could comment on this request, Respondent referred to the present proceedings as a "ridiculous charade." He then stated, "Your Honor. What part of what I said did you not hear? I have to be present in [the] Santa Ana Courthouse. Are you telling me that it's too bad for you? I advised you of [these] two cases, and you still want to go through and ramrod this case."

From Respondent's tone and mannerisms, it was clear that he was attempting to thwart the proceedings in recalcitrant fashion. The court again instructed Respondent to put on his first witness and warned that the matter would be submitted if he did not. Respondent then stated that this court does not listen to reason and was clearly biased and prejudiced against him.

Respondent was again instructed to call his first witness and was warned, once more, that if he did not call an actual witness, the case would be taken under submission. Respondent retorted by stating, "Do you want to have this on your record? Because I'm going to file a judicial complaint against you for violation of judicial canons of ethics." Respondent went on to state that the undersigned was the "poster-child for how not to be a judge and how not to be biased."

The court gave Respondent one last opportunity to call his first witness. Respondent then stated that he was calling the Presiding Judge of the Review Department of the State Bar Court. The Presiding Judge of the Review Department was not present in court, and there was no

evidence that Respondent had subpoenaed this witness. Before the court could comment on this request, Respondent stated, "This is ridiculous. You've heard me. What more do you need from me." The court then took this matter under submission.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on July 3, 2001, and has been a member of the State Bar of California at all times since that date.

Facts

In November 2012, the U.S. Government seized \$70,563.22 from James Park (James)⁶ from an account at Mission Bank. Sometime before December 2012, James hired Respondent and paid Respondent \$650 in cash the same day. The parties did not sign a retainer agreement.

James subsequently paid Respondent \$12,990 by check on December 4, 2012; \$7,000 by check on March 27, 2013; and \$2,000 by check on August 8, 2013. These payments were made in response to Respondent's requests for fees, but no billing statements were ever provided to James. In total, James paid Respondent \$22,640.

On April 24, 2013, the U.S. Government filed a civil forfeiture case titled *United States of America v. Approximately \$70,563.22 in U.S. Currency Seized from Mission Bank Account Number [XXXXXXX]*. Respondent filed an answer in that matter, on behalf of James as a claimant, in August 2013.

On September 12, 2014, a Final Judgment of Forfeiture was filed. Among the terms and conditions were that \$14,112.64 would be returned to James through Respondent. (See Exh. #7.) On November 18, 2014, the U.S. Government sent \$14,112.64 to Respondent's client trust

⁶ James and Respondent are not related.

account (CTA) located at Wells Fargo Bank. (See Exh. #8.) Prior to this deposit, Respondent's CTA balance was \$300.

On November 20, 2014, Respondent made an in-branch withdrawal of \$2,000 from his CTA. On November 24, 2014, Respondent transferred \$1,500 from his CTA to a savings account and also made a \$3,000 in-branch withdrawal from his CTA. Between December 5 and 29, 2014, Respondent made five additional in-branch withdrawals from his CTA, which lowered the balance to \$112.64.⁷ Neither the withdrawals nor the transfer were made on behalf of or for the benefit of James.

In early 2015, James sent an email to Respondent asking about the status of the funds. Respondent did not reply. Therefore, on February 20, 2015, James sent an email to opposing counsel asking about the status of the funds. Opposing counsel told James the funds had already been disbursed. That same day, James sent another email to Respondent regarding the status of the funds. Once again, Respondent did not reply. James also attempted to contact Respondent by phone, but the telephone number was disconnected.

On March 4, 2015, Respondent and James met at the office of certified public accountant Young Kim. At that time, Respondent told James the funds had been received and applied toward James's legal fees. Respondent claimed that there was only \$1,500 left after applying the funds to Respondent's purported legal fees. Respondent, however, was not authorized to unilaterally take James's funds and apply them to legal fees.⁸

⁷ No deposits were made during this time period.

⁸ Even if he were authorized to do so, the evidence does not support Respondent's argument that he earned \$35,252.64 in legal fees (\$22,640 + \$14,112.64 - \$1,500).

On March 8, 2015, James requested an accounting be provided to him. Respondent replied that it would be sent. When it was not received, James made the request again on March 12, 2015. Respondent indicated that he would send it by regular mail. On March 13, 2015, James again requested the accounting by text message, as well as the return of the promised \$1,500. Respondent replied by text and refused. Respondent never paid James any portion of the \$14,112.64 that was sent to Respondent on James's behalf.⁹

Conclusions

Count One – Section 6106 [Moral Turpitude – Misappropriation]

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment. Misappropriation is defined as “[t]he application of another’s property or money dishonestly to one’s own use.” (Black’s Law Dict. (8th ed. 2004) p. 1019, col. 1.) “[A]n attorney’s failure to use entrusted funds for the purpose for which they were entrusted constitutes misappropriation. [Citation.]” (*Baca v. State Bar* (1990) 52 Cal.3d 294, 304.) Further, as held in *Most v. State Bar* (1967) 67 Cal.2d 589, 597, “[a]n attorney may not unilaterally determine his own fee and withdraw funds held in trust for his client in order to satisfy it, without the knowledge or consent of the client.”

Here, Respondent was required to maintain \$14,112.64 in trust on James’s behalf. By December 29, 2014, Respondent’s CTA dipped to \$112.64. By intentionally misappropriating \$14,000 of James’s funds, Respondent committed an act involving moral turpitude and dishonesty, in willful violation of section 6106.

⁹ Despite ample opportunity, Respondent did not present any evidence in this matter. In his opening statement, Respondent claimed the evidence would show that he was entitled to a \$20,000 true retainer and \$500 per hour. There is no retainer agreement, no accounting, and no other evidence in the record to support these claims.

Count Two – Rule 4-100(B)(1) [Notification to Client of Receipt of Client Property]

Rule 4-100(B)(1) requires an attorney to notify a client promptly of the receipt of the client's funds, securities, or other properties. By failing to notify James that he received, on November 18, 2014, \$14,112.64 on James's behalf from the U.S. Government, Respondent failed to notify a client promptly of the receipt of client funds, in willful violation of rule 4-100(B)(1).

Count Three – Rule 4-100(B)(3) [Failure to Account]

Rule 4-100(B)(3) provides that an attorney must maintain records of all client funds, securities, and other properties coming into the attorney's possession and render appropriate accounts to the client regarding such property. By failing to provide James with an accounting, despite James's repeated requests, Respondent failed to render appropriate accounts to a client regarding all client funds coming into Respondent's possession, in willful violation of rule 4-100(B)(3).

Count Four – Rule 4-100(A)(2) [Withdrawal of Disputed Client Funds in Trust]

Rule 4-100(A)(2) provides that funds belonging to an attorney held in a client trust account must be promptly withdrawn. One exception to this rule applies to disputed funds, which are not to be withdrawn from the client trust account until the dispute is resolved. Here, the State Bar did not allege that Respondent withdrew disputed funds from his CTA, but rather that he failed to replenish funds in his CTA after "discovering" the funds were in dispute.

The court declines to find Respondent culpable on Count Four. The evidence before the court demonstrated that the \$14,112.64 refund was clearly James's funds. Respondent had no authority to take the funds nor did he have a reasonable basis to believe he was in any way entitled to unilaterally seize his client's funds. Therefore, a rule 4-100(A)(2) analysis is

inapplicable, as James's funds had already been misappropriated and were not in dispute.

Accordingly, Count Four is dismissed with prejudice.

Count Five – Rule 4-100(A) [Failure to Maintain Client Funds in Trust Account]

Rule 4-100(A) provides that all funds received or held for the benefit of clients must be deposited in a client trust account and no funds belonging to the attorney or law firm must be deposited therein or otherwise commingled therewith, except for limited exceptions. By failing to maintain James's \$14,112.64 in a bank account labeled "Trust Account," "Client's Funds Account," or words of similar import, Respondent failed to maintain client funds in trust, in willful violation of rule 4-100(A).

Aggravation¹⁰

Multiple Acts (Std. 1.5(b).)

Respondent's multiple acts of misconduct constitute an aggravating factor.

Harm to Client/Public/Administration of Justice (Std. 1.5(j).)

Respondent's misconduct caused significant harm to his client. While James's testimony regarding his willingness to forgive is admirable, the harm Respondent caused James cannot be ignored. Respondent not only deprived James of over \$14,000, but then ignored James's questions relating to the status of that money – forcing James to contact opposing counsel to discover what had happened. Accordingly, the significant harm Respondent caused James warrants substantial consideration in aggravation.

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

Rather than putting on a defense, Respondent chose to fight the present proceeding through stalling tactics and filibustering. The underlying NDC was filed on March 29, 2016.

¹⁰ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Since that date, these proceedings have been repeatedly delayed and continued at Respondent's request or based on his actions (or inaction). Over repeated State Bar objections, Respondent was given countless opportunities to retrieve the evidence he claimed was in his ex-wife's garage. Despite all of these opportunities, Respondent never produced any evidence. On top of that, he did not even file a pretrial statement or witness list.

Despite the extremely serious nature of the allegations, Respondent showed no desire to defend this matter on its merits. Instead, he chose to routinely belittle and berate the court and these proceedings. Respondent's repeated efforts to delay and derail these proceedings demonstrated his indifference toward rectification or atonement for the consequences of his misconduct – and warrants significant consideration in aggravation.

Lack of Cooperation with the State Bar (Std. 1.5(l).)

Throughout these proceedings, Respondent demonstrated a lack of cooperation with the State Bar. Respondent routinely ignored this court's orders requiring him to turn over information to the State Bar. And despite agreeing, in open court, to sign a medical release waiver, Respondent subsequently rebuffed and ignored the State Bar's efforts to have him sign such a waiver. Respondent's repeated refusals to cooperate with the State Bar throughout these proceedings warrant significant consideration in aggravation.

Failure to Make Restitution (Std. 1.5(m).)

Respondent's failure to make restitution of \$14,112.64 to James is a serious aggravating factor. To date, Respondent has not returned any portion of the misappropriated funds.

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Mitigation

No Prior Record (Std. 1.6(a).)

Respondent was admitted to practice law in California in 2001 and has no prior record of discipline. His 13 years of discipline-free conduct prior to the present misconduct warrants significant consideration in mitigation. This mitigation, however, is diminished by this court's conclusion that the present misconduct is likely to recur.¹¹ (See Std. 1.6(a).)

Discussion

The primary purposes of attorney discipline are to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; std. 1.1.)

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.) Standard 1.7 provides that if aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors. And, if two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.7(a).)

Standards 2.1(a), 2.2(a), and 2.2(b) apply in this matter. The most severe sanction is found at standard 2.1(a) which recommends disbarment for intentional or dishonest

¹¹ This conclusion is based on Respondent's conduct throughout these proceedings, including his lack of cooperation with the State Bar, his failure to comply with multiple court orders, and his demonstrated indifference toward rectification or atonement for the consequences of his misconduct.

misappropriation of entrusted funds unless the amount misappropriated is insignificantly small or the most compelling mitigating circumstances clearly predominate.

The Supreme Court gives the standards “great weight” and will reject a recommendation consistent with the standards only where the court entertains “grave doubts” as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) As the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

The State Bar urges the court to disbar Respondent from the legal profession under standard 2.1(a) and case law (including *Kaplan v. State Bar* (1991) 52 Cal.3d 1067; *Chang v. State Bar* (1989) 49 Cal.3d 114; *In the Matter of Blum* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511; *Kennedy v. State Bar* (1989) 48 Cal.3d 610; and *Kelly v. State Bar* (1988) 45 Cal.3d 649). Respondent, on the other hand, insisted that this is a fee dispute matter and maintains that it should be dismissed.

The gravamen of this case is misappropriation, not a fee dispute. The Supreme Court has repeatedly held that disbarment is the usual discipline for the willful misappropriation of client funds. (See *Edwards v. State Bar* (1990) 52 Cal.3d 28, 37; and *Howard v. State Bar* (1990) 51 Cal.3d 215, 221.) “In a society where the use of a lawyer is often essential to vindicate rights and redress injury, clients are compelled to entrust their claims, money, and property to the custody and control of lawyers. In exchange for their privileged positions, lawyers are rightly expected to exercise extraordinary care and fidelity in dealing with money and property belonging to their clients. [Citation.] Thus, taking a client’s money is not only a violation of the

moral and legal standards applicable to all individuals in society, it is one of the most serious breaches of professional trust that a lawyer can commit.” (*Ibid.*)

Here, the court finds *Chang v. State Bar*, *supra*, 49 Cal.3d 114, to be instructive. In *Chang*, the attorney was found culpable, in a single-client matter, of misappropriating \$7,900 in client funds, failing to provide his client with an accounting, and making misrepresentations both to his client and to the State Bar. In mitigation, the attorney had no prior record of discipline in eight years of practice prior to the misconduct. In aggravation, the attorney never acknowledged the impropriety of his conduct. In determining that the attorney should be disbarred, the Supreme Court noted his lack of candor to the State Bar investigator and State Bar Court, the seriousness of the misconduct, and his lack of remorse or restitution gave reason to doubt whether the attorney could conform his future conduct to the professional standards demanded of California attorneys. (*Id.* at p. 129.)

Chang and the present case have a lot of similarities. While the present case does not include a finding of misrepresentation, it does involve significantly more misappropriation. And similar to *Chang*, Respondent has given the court little reason to believe he is willing or able to comply with the professional standards demanded of California attorneys. Throughout these proceedings, Respondent has failed to follow rudimentary court orders. In addition, he has made no effort to make his victim whole, and he demonstrated extreme indifference toward rectification of his wrongdoing. These factors indicate that there is a high likelihood of recidivism and a considerable threat to public protection. Accordingly, this court is unable to recommend any discipline short of disbarment.

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Having considered the misconduct, the aggravating circumstances, as well as the case law and the standards, this court concludes that a disbarment recommendation is necessary to adequately protect the public and preserve the integrity of the legal profession.

Recommendations

It is recommended that respondent Ellis Park, State Bar Number 214303, be disbarred from the practice of law in California and Respondent's name be stricken from the roll of attorneys.

Restitution

The court also recommends that Respondent be ordered to make restitution to James Park in the amount of \$14,112.64, plus 10% interest per annum from November 18, 2014. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

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.

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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: May 12, 2017



LUCY ARMENDARIZ
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 May 12, 2017, I deposited a true copy of the following document(s):

DECISION 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:

ELLIS PARK
PILG
2312 PARK AVE # 210
TUSTIN, CA 92782

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

DREW D. MASSEY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 12, 2017.



Bernadette Molina
Case Administrator
State Bar Court