

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: 15-PM-10108-DFM
	)	
<b>RAUL THOMAS SOSA,</b>	)	<b>ORDER GRANTING MOTION TO</b>
	)	<b>REVOKE PROBATION AND ORDER OF</b>
<b>Member No. 58353</b>	)	<b>INACTIVE ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

**Introduction**

On January 13, 2015, the Office of Probation of the State Bar of California (Office of Probation) filed a motion to revoke the probation of respondent **Raul Thomas Sosa**. 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 participate in this proceeding. On February 13, 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 August 7, 2013, the California Supreme Court filed an order, S211103, accepting the State Bar Court’s discipline recommendation in case Nos. 12-O-12305 and 12-O-14473. The discipline included a two-year stayed suspension, three years’ probation, and conditions of

probation including a one-year period of actual suspension. This order was properly served on Respondent and became effective on September 6, 2013.<sup>1</sup>

On August 20, 2013, the Office of Probation sent Respondent a reminder letter regarding the probation conditions at his official address. This letter was not returned as undeliverable or for any other reason.

On October 2, 2013, Respondent and his probation deputy communicated by telephone regarding the terms and conditions of his disciplinary probation. During that meeting, Respondent stated that he did not plan to practice again and was contemplating resignation.

Despite those efforts to make Respondent aware of the conditions of his probation and to secure his compliance with them, Respondent did not subsequently 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 did not file his quarterly reports due April 10, 2014; July 10, 2014; October 10, 2014; and January 10, 2015.

(b) Respondent was ordered to provide the Office of Probation, by September 6, 2014, satisfactory proof of completion of: (1) six hours of participatory Minimum Continuing Legal Education (MCLE) approved courses in legal ethics; or (2) attendance at Ethics School and passage of the test given at the end of that session. Respondent, however, failed to provide the

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<sup>1</sup> 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.)

Office of Probation proof that he attended either the Ethics School or six hours of MCLE-approved courses in legal ethics.

(c) Respondent was ordered to provide the Office of Probation, by September 6, 2014, satisfactory proof of completion of: (1) six hours of participatory MCLE approved courses in client trust accounting; or (2) attendance at the Ethics School Client Trust Accounting School and passage of the test given at the end of that session within one year of the effective date of his discipline. Respondent, however, failed to provide the Office of Probation proof that he attended either Ethics School or six hours of MCLE approved courses in client trust accounting.

### **Aggravation**

#### **Prior Discipline**

Respondent has a record of two prior disciplines. This is a significant factor in aggravation. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,<sup>2</sup> std. 1.5(a).)

On June 24, 1992, the Supreme Court filed order no. S026160 (State Bar Court case No. 87-O-17968), suspending Respondent from the practice of law for one year, stayed, and placing him on probation for one year.<sup>3</sup> In that matter, Respondent engaged in the unauthorized practice of law and held himself out as entitled to practice law while not an active member of the State Bar. In mitigation in that matter, Respondent had no prior record of discipline and was candid and cooperated with the State Bar. In aggravation, Respondent committed multiple acts of misconduct.

As previously noted, the Supreme Court, filed an order on August 7, 2013, in State Bar Court case nos. 12-O-12305 and 12-O-14473, suspending Respondent from the practice of law

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<sup>2</sup> All further references to standard(s) or std. are to this source.

<sup>3</sup> On February 6, 2015, the Office of Probation filed a motion requesting that the court take judicial notice of Respondent's June 24, 1992 discipline. That motion is granted.

for two years, stayed, and placing him on probation for three years with conditions of probation including a one-year period of actual suspension. In that matter, Respondent failed to communicate a settlement offer, failed to disburse settlement funds (two counts), failed to promptly notify a client of the receipt of client funds, failed to promptly respond to reasonable client status inquires, failed to maintain client funds in trust, and misappropriated \$600.82 in client funds. In mitigation, Respondent was candid and cooperated with the State Bar. In aggravation, Respondent had a prior record of discipline, committed multiple acts of misconduct, and caused significant harm to his clients.

### **Multiple Acts of Misconduct**

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

### **Lack of Participation in Disciplinary Proceeding**

Respondent's failure to participate in this disciplinary proceeding is also an aggravating factor. (Std. 1.5(h); *In the Matter of Stansbury* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103, 109-110.)

### **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

satisfactory proof is presented to this court of Respondent's fitness to practice and learning and ability in the general law is both required and appropriate to protect the public in this instance. This is the third time that Respondent has been disciplined. His misconduct in the second matter was extensive and serious. Respondent was aware of the terms and conditions of his disciplinary probation, yet he did not comply with them despite reminders from the Office of Probation. He then failed to participate in this proceeding, a matter of considerable concern to this court. Given this ongoing record by Respondent of his apparent disregard for or inability to comply with his professional obligations, including his obligation to participate in the State Bar's disciplinary process, strenuous measures must be taken to protect the public and the profession.

### **Recommended Discipline**

#### **Actual Suspension**

The court recommends that the probation of Respondent **Raul Thomas Sosa**, State Bar No. 58353, imposed in Supreme Court case No. S211103 (State Bar Court case Nos. 12-O-12305 and 12-O-14473) be revoked; that the previous stay of execution of the suspension be lifted; and that Respondent be actually suspended from the practice of law for a minimum of two years and until Respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general. (Rules Proc. of State Bar, tit. IV, Stds. for Atty.

Sanctions for Prof. Misconduct, std. 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 matter S211103.

### **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**

Section 6007, subdivision (d)(1), provides for an attorney's involuntary inactive enrollment for violating probation if: (A) the attorney is under a suspension order any portion of which has been stayed during a period of probation, (B) the court finds that probation has been violated, and (C) the court recommends that the attorney receive an actual suspension due to the probation violation or other disciplinary matter. The requirements of section 6007, subdivision (d)(1) have been met.

Respondent **Raul Thomas Sosa**, State Bar No. 58353, is ordered to be involuntarily enrolled inactive under Business and Professions Code section 6007, subdivision (d)(1).<sup>4</sup> This

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<sup>4</sup>Any period of involuntary inactive enrollment will be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)

inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: March \_\_\_\_\_, 2015

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DONALD F. MILES  
Judge of the State Bar Court