PUBLIC MATTER

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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of	)	Case Nos. 16-O-14185 (17-O-01780; 17-O-01784; 17-O-06286); 18-C-10309; 18-C-11605; 18-J-11954 (Cons.)-MC
RICHARD LEE BOBUS,	)	
State Bar No. 250664	)	DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

Introduction

Respondent Richard Lee Bobus is charged with numerous counts of misconduct in seven consolidated matters. In view of Respondent's overwhelming record of misconduct, the aggravating circumstances, and the lack of substantial mitigation, the court recommends that Respondent be disbarred.

Significant Procedural History

This case arises from four separate matters:

1. 18-C-10309 (a misdemeanor conviction for driving under the influence with an enhancement, referred to the Hearing Department by order of the Review Department on April 4, 2018);

2. 18-C-11605 (a misdemeanor conviction for driving without a valid license, referred to the Hearing Department by order of the Review Department on May 23, 2018);

3. 18-J-11954 (Notice of Disciplinary Charges [NDC] filed on July 3, 2018, concerning disciplinary proceedings by the United States Department of Justice Executive Office for Immigration Review); and

4. 16-O-14185 (17-O-01780; 17-O-01784; 17-O-06286) (NDC filed on August 24, 2018, alleging 17 counts of misconduct related to immigration clients, appearing in court while suspended, and aiding in the unauthorized practice of law).

These matters were consolidated by court order on November 21, 2018. A two-day trial was held on December 18, 2018 and January 24, 2019. Respondent represented himself at trial. On the first day of trial, Respondent stipulated to numerous facts on the record and in a written stipulation. On January 22, the parties filed a detailed Stipulation as to Facts and Admission of Documents (Stipulation). On January 23, Respondent filed an Amended Response in which he stated, "[t]o all the Disciplinary Charges alleged against me in the above entitled cases, I wish to admit to all charges as alleged." On the second day of trial, Respondent admitted culpability to all the present charges on the record. Consequently, the central issue before this court is determining the appropriate level of discipline.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on September 15, 2007 and has since been a California attorney at all times.

Case No. 16-O-14185 – Soto de la Cruz Matter

Facts

In June 2014, Jaime Soto de la Cruz and his wife, Adilene Reyes-Aleman, employed Respondent to file a U-visa petition on Soto de la Cruz's behalf. Other than meeting Respondent briefly, Soto de la Cruz and his wife worked exclusively with Andres Viesca, a non-attorney Respondent hired to work in his office. Respondent: (1) incorrectly classified the crime of which Soto de la Cruz was a victim; (2) failed to seek derivative status for Reyes-Aleman; (3) failed to complete a section of an immigration form entitled "helpfulness of the victim"; and (4) failed to file an I-192 Form with the U-visa petition. From September 2014 to March 2015, Respondent received but failed to promptly respond to multiple telephone calls from Soto de la Cruz and Reyes-Aleman seeking reasonable status inquiries.

On November 6, 2015, Soto de la Cruz and Reyes-Aleman terminated Respondent's employment. Thereafter, Respondent failed to promptly release all of Soto de la Cruz's and Reyes-Aleman's papers and property despite their repeated requests between November 2015 and April 2016.

On September 7, 2016 and April 11, 2017, the Office of Chief Trial Counsel of the State Bar of California (OCTC) sent letters to Respondent requesting his response to the allegations of misconduct under investigation in case no. 16-O-14185. Respondent received these letters, but did not provide a substantive response.

Conclusions

Count One – Rule 3-110(A) [Failure to Perform Legal Services with Competence] [1]

Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence. Rule 3-110(A) also includes a duty to supervise non-attorney staff. (*In the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627, 634 [attorney violated rule 3-110(A) by failing to adequately supervise work of staff]; *In the Matter of Huang* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296 [attorney culpable of failing to perform competently where he delegated work to staff whom he failed to supervise, thereby failing to competently evaluate clients' claims and represent clients appropriately].) Respondent willfully violated rule 3-110(A) by failing to adequately supervise Viesca and, thereby, failing to competently perform the legal services for which Soto de la Cruz and Reyes-Aleman employed him, including: (1) incorrectly classifying the crime of which Soto de la Cruz was a victim; (2) failing to seek derivative status for Reyes-Aleman; (3) failing to complete a section of an immigration form entitled "helpfulness of the victim"; and (4) failing to file an I-192 Form with the U-visa petition.

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

Count Two – Section 6068(m) [Failure to Communicate]

Section 6068(m) provides that an attorney has a duty to promptly respond to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services. By failing to substantively respond to Soto de la Cruz's and Reyes-Aleman's repeated status inquiries from September 2014 to March 2015, Respondent willfully violated section 6068(m).

Count Three – Rule 3-700(D)(1) [Failure to Return Client Papers/Property]

Rule 3-700(D)(1) requires an attorney, upon termination of employment, to promptly release to the client, at the client's request, all client papers and property, subject to any protective order or non-disclosure agreement. After the termination of his employment, Respondent failed to promptly release to Soto de la Cruz and Reyes-Aleman all of their papers and property upon their request in willful violation of rule 3-700(D)(1).

Count Four – Section 6068(i) [Failure to Cooperate]

Section 6068(i) provides that an attorney has a duty to cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against the attorney. By failing to provide a substantive response to the State Bar investigator's letters in the Soto de la Cruz matter, Respondent failed to cooperate and participate in a disciplinary investigation in willful violation of section 6068(i).

Case No. 17-O-01780 – Maria Mendoza Matter

Facts

In July 2014, Maria Elena Mendoza employed Respondent to file a U-visa petition. Mendoza paid Respondent $1,400 in advanced fees. On February 2, 2017, Mendoza terminated Respondent's employment due to his failure to file a U-visa petition on her behalf. Upon his termination, Respondent had not earned any portion of the advanced fees paid by Mendoza.

Five days after his termination, on February 7, 2017, Respondent filed a U-visa petition on Mendoza's behalf. Respondent failed to attach an I-192 Form to the U-visa petition. Thereafter, Respondent failed to promptly release all of Mendoza's papers and property upon her request. Respondent also did not return any portion of the $1,400 advanced fee.

On June 19 and July 12, 2017, OCTC sent letters to Respondent requesting his response to the allegations of misconduct under investigation in case no. 17-O-01780. Respondent received these letters, but did not provide a substantive response.

Conclusions

Count Five – Rule 3-110(A) [Failure to Perform Legal Services with Competence]

In Count Five, OCTC alleged that Respondent willfully violated rule 3-110(A) by "failing to attach the I-192 form to the U-visa petition." However, a single allegation of failing to attach a form does not demonstrate intentional, reckless, or repeated misconduct. Count Five has not been established by clear and convincing evidence and is dismissed with prejudice.

Count Six – Rule 3-700(D)(1) [Failure to Return Client Papers/Property]

After the termination of his employment, Respondent failed to promptly release to Mendoza all of her papers and property upon her request in willful violation of rule 3-700(D)(1).

Count Seven – Rule 3-700(D)(2) [Failure to Refund Unearned Fees]

Rule 3-700(D)(2) requires an attorney, upon termination of employment, to promptly refund any part of a fee paid in advance that has not been earned. Respondent failed to refund any portion of the unearned $1,400 in advanced fees he charged and collected in the Mendoza matter in willful violation of rule 3-700(D)(2).

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Count Eight – Section 6068(i) [Failure to Cooperate]

By failing to provide a substantive response to the State Bar investigator's letters in the Mendoza matter, Respondent failed to cooperate and participate in a disciplinary investigation in willful violation of section 6068(i).

Case No. 17-O-01784 – People v. Aguilar Matter

Facts

Respondent was suspended from the practice of law pursuant to Supreme Court Order number S238714 for a period of 30 days from March 1 to March 31, 2017. The Supreme Court Order was issued on January 30, 2017. Respondent was properly served with the order and acknowledges receipt.

On February 23, 2017, the Office of Probation of the State Bar of California (Office of Probation) uploaded to Respondent's State Bar attorney profile a reminder letter setting forth the conditions of his probation, the effective date of his suspension, and his reporting requirements. The Office of Probation also emailed Respondent, at the email address he maintains for State Bar purposes, to inform him that the letter had been uploaded. According to State Bar records, Respondent accessed his California State Bar profile on February 24.

Respondent's suspension began on March 1, 2017 and from this date he was not entitled to practice law. That same day, he held himself out as entitled to practice law and actually practiced law by appearing in a Sonoma County Superior Court matter entitled *People v. Aguilar*, case no. SCR-659985. On March 15, Respondent informed the Office of Probation of his March 1 appearance in *Aguilar*. Respondent explained to his probation deputy that he had confused the start date of his suspension. Respondent thought his 30-day actual suspension had taken effect on October 12, 2016, as he had read the rule to mean effective from the date of the hearing judge's signature.

On March 16, 2017, OCTC instructed Respondent to submit a written statement regarding the *Aguilar* appearance. Respondent failed to do so. On April 10, Respondent submitted his quarterly probation report stating that he was going to submit a letter to the State Bar about the appearance in *Aguilar*. No such letter was ever submitted. On April 26 and May 22, OCTC sent Respondent letters to his official State Bar record address, requesting a written response to the unauthorized practice of law allegation. Respondent failed to respond to either letter.

Conclusions

Count Nine – Section 6068(a) [Unauthorized Practice of Law]

Section 6068(a) provides that an attorney has a duty to support the Constitution and laws of the United States and California. Section 6125 provides that only active State Bar attorneys may lawfully practice law in California. Section 6126 provides that any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active State Bar attorney, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is guilty of a misdemeanor. By making an appearance in *Aguilar*, Respondent held himself out as entitled to practice law and actually practiced law when he was not an active attorney of the State Bar of California. Accordingly, Respondent willfully violated sections 6125 and 6126 and thereby failed to support the laws of the State of California in willful violation of section 6068(a).

Count Ten – Section 6106 [Moral Turpitude]

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment. By holding himself out as entitled to practice law and actually practicing law in *Aguilar*, Respondent, at a minimum, was grossly negligent in not knowing that he was not entitled to practice law in the

State of California. Thus, he willfully violated section 6106 by committing an act involving moral turpitude, dishonesty, or corruption.

Count Eleven – Section 6068(i) [Failure to Cooperate]

By failing to provide a substantive response to OCTC's letters in the *Aguilar* matter, Respondent failed to cooperate and participate in a disciplinary investigation in willful violation of section 6068(i).

Case No. 17-O-06286 – Corvera Matter

Facts

On April 6, 2017, Cesar Corvera employed Respondent to perform legal services in his immigration matter. Corvera paid Respondent $2,200 toward a $5,000 flat fee. Respondent failed to file an asylum petition, appear at a removal proceeding, and perform any legal services. By failing to take any action on Corvera's behalf, Respondent constructively terminated his employment. Respondent also did not return any portion of the $2,200 paid toward the flat fee.

On December 19, 2017 and January 8, 2018, OCTC sent letters to Respondent requesting his response to the allegations of misconduct under investigation in case no. 17-O-06286. Respondent received these letters, but did not provide a substantive response.

Conclusions

Count Twelve – Rule 3-110(A) [Failure to Perform Legal Services with Competence]

Respondent willfully violated rule 3-110(A) by failing to competently perform the legal services for which Corvera employed him, including failing to file the asylum petition and failing to appear at a removal proceeding hearing.

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Count Thirteen – Rule 3-700(D)(2) [Failure to Refund Unearned Fees]

Respondent failed to refund any portion of the unearned $2,200 in fees he charged and collected in the Corvera matter. Respondent's failure to refund Corvera's unearned fees constitutes a willful violation of rule 3-700(D)(2).

Count Fourteen – Rule 3-700(A)(2) [Improper Withdrawal from Employment]

Rule 3-700(A)(2) prohibits an attorney from withdrawing from employment until the attorney has taken reasonable steps to avoid reasonably foreseeable prejudice to the client's rights, including giving due notice to the client, allowing time for the employment of other counsel, and complying with rule 3-700(D) and other applicable rules and laws. Respondent constructively terminated his employment by failing to take any action on Corvera's behalf and failing to inform Corvera that he was withdrawing from employment. By failing to take necessary steps to avoid reasonably foreseeable prejudice to his client after termination of employment, Respondent willfully violated rule 3-700(A)(2).

Count Fifteen – Section 6068(i) [Failure to Cooperate]

By failing to provide a substantive response to the State Bar investigator's letters in the Corvera matter, Respondent failed to cooperate and participate in a disciplinary investigation in willful violation of section 6068(i).

Case Nos. 16-O-14185, 17-O-01780, & 17-O-06286 – Aiding Unauthorized Practice of Law

Facts

From June 2014 through July 2017, Respondent allowed Andres Viesca, who is not licensed to practice law in California, to: (1) meet with clients without Respondent present; (2) provide legal advice as to the type of relief for which the clients were eligible; (3) accept fees; and (4) prepare and submit immigration forms. During this time period, Respondent knew or

was grossly negligent in not knowing that Viesca was practicing law by dispensing legal advice in immigration matters to clients that came to Respondent's office.

Count Sixteen – Rule 1-300(A) [Aiding Unauthorized Practice of Law]

Rule 1-300(A) provides that an attorney must not aid any person or entity in the unauthorized practice of law. By permitting Viesca, a non-attorney, to: (1) meet with clients without Respondent present; (2) provide legal advice as to the type of relief for which the clients were eligible; (3) accept fees; and (4) prepare and submit immigration forms, Respondent aided a person in the unauthorized practice of law in willful violation of rule 1-300(A).

Count Seventeen – Section 6106 [Moral Turpitude]

By allowing Viesca to practice law utilizing Respondent's office when Respondent was, at a minimum, grossly negligent in not knowing that Viesca was practicing law, Respondent, through gross negligence, willfully violated section 6106 by committing an act involving moral turpitude, dishonesty, or corruption.

Case No. 18-C-10309 – Driving Under the Influence Conviction Matter

Respondent is conclusively presumed, by the record of his conviction in this proceeding, to have committed all of the elements of the crimes of which he was convicted. (See Bus. & Prof. Code, section 6101(a); *In re Crooks* (1990) 51 Cal.3d 1090, 1097; *In re Duggan* (1976) 17 Cal.3d 416, 423; *In the Matter of Respondent O* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 581, 588.) However, "[w]hether those acts amount to professional misconduct . . . is a conclusion that can only be reached by an examination of the facts and circumstances surrounding the conviction." (*Id.* at p. 589, fn. 6.)

Facts

On November 29, 2017, a police officer observed Respondent driving erratically. When the officer initiated a traffic stop, Respondent attempted to make a left turn into a driveway but,

instead, ran over the curb with all four wheels. Respondent stopped in the driveway, nearly colliding with a fence lining the property.

The officer noted that Respondent's eyes were glassy and bloodshot and his speech was slurred. He could also smell a strong odor of alcohol coming from Respondent. Respondent performed field sobriety tests and took a breath test. Respondent performed poorly on the field sobriety tests and his breath test indicated that his blood alcohol level was at least .15%. Respondent was arrested for driving under the influence (DUI).

On December 27, 2017, the Sonoma County District Attorney's Office filed a two-count misdemeanor complaint in case no. SRO-1715774, alleging violations of California Vehicle Code sections 23152(a) [DUI] and 23152(b) [DUI with .08% or more blood alcohol level]. It was further alleged that Respondent's blood alcohol level was .15% or higher and that he had a prior DUI conviction within 10 years.[2]

On January 5, 2018, Respondent entered a no contest plea to a violation of Vehicle Code section 23152(b) and admitted to the enhancement for driving with a blood alcohol level of .15% or higher. The Sonoma County Superior Court sentenced Respondent to, among other things, 90 days in county jail and 36 months of probation.

Conclusions

An attorney's conviction of driving under the influence of alcohol, even with prior convictions of that offense, does not per se establish moral turpitude. (*In re Kelley* (1990) 52 Cal.3d 487, 494.) Here, the court finds that the facts and circumstances surrounding Respondent's conviction for driving under the influence of alcohol do not involve moral turpitude, but do involve other misconduct warranting discipline. (See *In re Carr* (1988) 46 Cal.3d 1089; *In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208.)

[2] Respondent's prior DUI arrest and conviction occurred in 2014.

Case No. 18-C-11605 – Driving Without a Valid License Conviction Matter

Facts

On August 17, 2014, a police officer working undercover on a suspended drivers' license sting observed Respondent driving. The officer stopped Respondent and requested his driver's license, which was suspended. Respondent's vehicle was impounded, and he was cited and released.

On September 15, 2014, the Sonoma County District Attorney's Office filed a two-count misdemeanor complaint alleging violations of California Vehicle Code sections 14601.5(a) (driving with a suspended license revoked for refusal to submit to a chemical test or excess blood alcohol) and 12500(a) (driving without a valid license). On February 11, 2015, Respondent entered a no contest plea to a driving without a valid license. The charge alleging a violation of Vehicle Code section 14601.5(a) was dismissed. Respondent was ordered to pay a fine.

Conclusions

The facts and circumstances surrounding Respondent's conviction for driving without a valid license do not involve moral turpitude but do involve other misconduct warranting discipline.

Case No. 18-J-11954 – Immigration Court Matter

On November 9, 2017, Respondent executed a settlement agreement with disciplinary counsel for the Executive Office for Immigration Review (EOIR). The agreement was approved by an Immigration Court judge on December 15. Pursuant to the approved settlement, Respondent was actually suspended from practicing before the Immigration Courts, the Board of Immigration Appeals, and the Department of Homeland Security (DHS) for one year.

Section 6049.1(a) provides that a certified copy of a final order by any court of record of any state of the United States, determining that a State Bar attorney committed professional

misconduct in that jurisdiction, shall be conclusive evidence that the attorney is culpable of professional misconduct in this state. The issues in this proceeding are limited to: (1) the degree of discipline to be imposed upon Respondent in California; (2) whether, as a matter of law, Respondent's culpability in the Immigration Court proceeding would not warrant the imposition of discipline in California state court under the laws or rules applicable at the time of Respondent's misconduct; and (3) whether the Immigration Court proceeding lacked fundamental constitutional protections. (See Section 6049.1(b).)

Pursuant to section 6049.1(b), Respondent bears the burden of establishing either: (1) that the conduct for which he was disciplined in the Immigration Court proceeding would not warrant the imposition of discipline in California state court; or (2) that the Immigration Court proceeding lacked fundamental constitutional protection. Unless Respondent establishes one or both of these, the record of discipline in the Immigration Court proceeding is conclusive evidence of Respondent's culpability.

Respondent stipulated to culpability and has not established either of these factors. His culpability for misconduct established in the Immigration Court proceeding warrants discipline in California under rule 3-110(A), as well as sections 6103 and 6068(b).

Facts

Maria Puleyma Solorio-Franco Matter

Respondent entered his appearance in this matter on January 14, 2015. On May 19, Respondent appeared with his client, Maria Puleyma Solorio-Franco, and informed the court that he would be filing an asylum application for her and her daughter would receive derivative status on the application. The court continued the case to allow Respondent time to retrieve the application from his office. Respondent subsequently filed the application.

On February 21, 2017, Respondent appeared with Solorio-Franco for a scheduled hearing. The judge asked Respondent why he had not filed any documentation to support Solorio-Franco's asylum application. Respondent stated that he believed, up until a few days prior, that Solorio-Franco and her daughter were ineligible for asylum because they were not part of any recognized particular social group. Respondent had encouraged Solorio-Franco to request a voluntary departure because he did not believe that she had any other options for relief. Respondent's opinion of the case was altered after a conversation he had with another attorney who advised him that Solorio-Franco and her daughter could be eligible for asylum using a family-based particular social group.

The judge stated that she could not move forward with the asylum case as Respondent had failed to file any identity documents or evidence. The judge pointed out that Solorio-Franco's declaration was only one paragraph and lacked any detailed information. The judge continued the case, rather than ordering the removal of Solorio-Franco and her daughter, which would require that Solorio-Franco file a motion to reopen based on ineffective assistance of counsel.

Monica Valdovinos Enriquez Matter

On February 4, 2015, Respondent entered his appearance in this matter and on August 27, Respondent informed the court that his client, Monica Valdovinos Enriquez, would seek asylum. On April 14, 2016, Respondent appeared for a hearing and the judge noted that Respondent had filed the supporting documentation for the asylum petition one day before the scheduled court hearing, in violation of the 15-day filing rule in the Immigration Court Practice Manual.

The judge reviewed Valdovinos Enriquez's asylum application and asked what particular social group she was relying on for requesting asylum. Respondent identified the social group as

"business owners." The judge asked Respondent if he was aware that this likely would not constitute a distinct or particular group. Respondent stated that he thought, if people are different and are extorted because they are different, this would qualify. When the judge asked if Respondent had any case citation to support his argument, Respondent said he did not. The judge asked Respondent why he was not prepared. Respondent stated that he did not have a clear understanding of what happens at an individual hearing as he had only done individual hearings for a detained docket.

The judge granted a continuance and ordered Respondent to provide written amendments to Valdovinos Enriquez's asylum application, including identifying an articulated social group supported by precedent by June 22, 2016. Respondent did not comply with the court's order.

EOIR disciplinary counsel found that Respondent engaged in conduct lacking competence and diligence during his representation of Valdovinos Enriquez, in violation of EOIR's Rules of Professional Conduct, 8 Code of Federal Regulations (C.F.R.), section 1003.102(o) and (q).[3] This finding was based on Respondent's failure to meet two separate deadlines for filing documentation in support of Valdovinos Enriquez's asylum case and his failure to research and provide a viable particular social group supported by precedent.

Respondent did not file any written amendments or legal argument before the next court hearing on February 21, 2017. At that hearing, the judge noted that Valdovinos Enriquez had given birth to another child since the asylum application had been filed and asked Respondent why he did not amend the application to include that information. Respondent had no answer.

[3] On September 6, 2016, the EOIR disciplinary counsel issued an informal admonition to Respondent based upon his conduct in seven different matters, including Valdovinos Enriquez's case.

The judge asked Respondent why he did not submit written legal argument in support of Valdovinos Enriquez's articulated social group of business owners in Mexico. Respondent stated that he had nothing else to file. The judge asked Respondent if he was saying that there was no legal basis to support Valdovinos Enriquez's asylum claim. Respondent stated that this was not what he was saying and that he would be arguing a change in conditions from 2010 until present regarding business owners. The judge continued the matter to allow Respondent an additional opportunity to amend the application and provide written legal argument.

Artemio Martinez-Rodriguez Matter

On January 27, 2014, Respondent entered his appearance in this matter. On March 15, 2016, Respondent appeared with his client, Artemio Martinez-Rodriguez, at a scheduled hearing. Respondent stated that Martinez-Rodriguez would apply for cancellation of removal once he married his fiancée and she gained lawful permanent residence status. In response to the judge's inquiry about his client's criminal history, Respondent stated that Martinez-Rodriguez had two criminal convictions, neither of which he believed would bar him from cancellation of removal. The judge ordered Respondent to file the conviction records and written legal argument explaining why Martinez-Rodriguez's criminal history did not statutorily bar him from cancellation of removal.

The judge noted that Martinez-Rodriguez had a pending withholding of removal application filed by prior counsel. Respondent stated that he would pursue both cancellation of removal and withholding of removal. The judge set the case for an individual hearing on both applications and told Respondent that he needed to have all supporting documentation for both applications filed prior to the hearing. Respondent subsequently failed to file the conviction records and written legal argument by the deadline.

On August 30, 2016, the judge issued a new order and deadline requiring Respondent to file the conviction records and a brief regarding Martinez-Rodriguez's eligibility for cancellation of removal. Respondent did not file the documents by the deadline. On October 24, Respondent filed the conviction documents and a one-page written argument in support of Martinez-Rodriguez's eligibility for cancellation of removal. The date stamp on the conviction documents was January 14, 2014.

On February 6, 2017, Respondent informed the judge that Martinez-Rodriguez did not get married and, therefore, did not have a qualifying relative for purposes of cancellation of removal. Martinez-Rodriguez's son was a lawful permanent resident and had turned 21 years old in November 2016, and, as such, was a qualifying relative for purposes of cancellation of removal. Respondent, however, did not consider or raise this fact.

The judge informed Respondent that Martinez-Rodriguez's matter would move forward on the withholding of removal application. The judge noted that the withholding application made reference to a declaration and asked Respondent if there was a declaration accompanying the application. Respondent stated that he missed the fact that there was no declaration on file.

The judge noted that the only documents in the record in support of Martinez-Rodriguez's withholding application were news articles and human rights reports which were more than five years old and had been submitted by prior counsel. The judge asked Respondent why he had not updated the withholding of removal application or even reviewed it during the three years that he had been representing his client. The judge also asked Respondent if he had discussed with Martinez-Rodriguez what evidence he needed to support his withholding of removal application. Respondent stated that he did not have a discussion with his client because he did not think Martinez-Rodriguez's claim for withholding of removal had much merit. Respondent stated he had focused on the claim for cancellation of removal.

The judge informed Martinez-Rodriguez that Respondent had not filed any additional documents with the court and failed to prepare Martinez-Rodriguez for his hearing because Respondent believed Martinez-Rodriguez's claim to be weak. He then asked Martinez-Rodriguez how he wanted to proceed. Martinez-Rodriguez responded that he wanted to find a new attorney. The judge continued the case.

Ana Daysi Galdamez-De Soriano Matter

On April 7, 2016, Respondent entered his appearance in this matter and on that same date, Respondent appeared with his client, Ana Daysi Galdamez-De Soriano, for the scheduled court hearing on the asylum application. The judge set the case for an individual hearing.

Respondent did not file any supporting documentation for the asylum application by the subsequent hearing date, February 3, 2017. At that hearing, the judge noted that the biometrics had not been completed. Respondent informed the court that he had assumed that the biometrics had already been done and had never asked Galdamez-De Soriano about this issue.

The judge asked Respondent if he had any supporting documentation or updates to the asylum application. Respondent stated that he did not. The judge noted that the application was handwritten, incomplete, and contained material errors. The judge pointed out that the application listed Galdamez-De Soriano's present nationality as United States instead of El Salvador. DHS indicated that its copy of the application listed Galdamez-De Soriano's present nationality as El Salvador. Respondent had provided the court and DHS with two different versions of Galdamez-De Soriano's asylum application.

The judge also noted that the application listed the current statuses of Galdamez-De Soriano's daughters as "Illigal" (sic), which was not a status and that word was misspelled.

Moreover, no box was checked to indicate the basis for which asylum or withholding of removal was being sought. Due to these deficiencies, the judge continued the case.

Luciano Lopez-Nunez Matter

On November 20, 2014, Respondent entered his appearance in this matter and appeared at a hearing where he informed the court that his client, Luciano Lopez-Nunez, would seek cancellation of removal. The judge set a deadline for Respondent to file the cancellation of removal application and any supporting documents, including conviction records. Respondent failed to file the application and supporting documents by the deadline.

On November 30, 2015, Respondent and Lopez-Nunez appeared at a scheduled hearing and the judge noted that no cancellation of removal application, supporting documentation, or biometrics had been filed. Respondent informed the court that he thought Lopez-Nunez was getting divorced and that Respondent had "dropped the ball" on filing the application. Respondent asserted that he had the application ready and he filed it with the court.

Respondent stated that Lopez-Nunez had completed his biometrics and was awaiting the results. Respondent requested a continuance for additional attorney preparation. The judge granted the continuance and set a deadline for Respondent to file supporting documents. Respondent failed to file the documents by the deadline. Respondent later filed the supporting documentation for Lopez-Nunez's cancellation of removal application.

On January 25, 2017, Respondent appeared with Lopez-Nunez for a scheduled hearing and submitted a doctor's letter which stated that Lopez-Nunez's daughter had sustained burns. Respondent explained to the court that he had just discovered the document after discussing the case with Lopez-Nunez. The judge stated that she needed an updated letter stating the current

prognosis of the child. Respondent stated that he was unaware that he would have to provide the updated information.

The judge pointed out that Respondent had failed to provide the doctor's curriculum vitae detailing his qualifications and asked Respondent if the doctor would be testifying that day, in case DHS wanted to cross-examine him on his credentials. Respondent stated that he was unaware that he needed to demonstrate the qualifications of the doctor and that he had not discussed with the doctor his availability to testify.

The judge noted that the tax returns attached to the application were incomplete. The judge added that no other documents had been filed with the court to show physical presence and that Respondent would need additional documents because the tax returns did not show when they were filed. Respondent stated that he thought that the tax records he had filed with the application would be sufficient. DHS also identified problems with the application, such as the failure to disclose Lopez-Nunez's criminal arrest, failure to list one child, and was missing a birth certificate for one child.

The judge asked Respondent if he had any amendments to the application and Respondent stated that he had none. The judge asked Lopez-Nunez if someone had read the application to him in Spanish. Lopez-Nunez stated no and that the application did not look familiar to him. The judge stated that Lopez-Nunez could not be cross examined regarding his failure to disclose his arrest as no one had reviewed the application with him. The judge continued the matter to allow Respondent an additional opportunity to supplement the application and prepare Lopez-Nunez for the hearing.

Janeth Ramirez-Duran Matter

On November 6, 2014, Respondent entered his appearance in this matter and on that same date, he appeared with his client, Janeth Ramirez-Duran, at a scheduled hearing.

Respondent stated that Ramirez-Duran would seek asylum. The judge ordered Respondent to have the asylum application ready to file by January 13, 2015.

On January 13, 2015, Respondent appeared with Ramirez-Duran and filed the asylum application. The judge informed Respondent that the matter could not be set for an individual hearing as no supporting documentation had been filed with the application. The matter was continued to a future date and Respondent was ordered to submit the documentation by then.

On May 6, 2015, Respondent appeared at a hearing with Ramirez-Duran and filed her declaration in support of her asylum application. Respondent did not file any additional supporting documentation. The judge asked Respondent if he planned to supplement the record prior to the hearing. Respondent stated that he would do so and that he was in the process of obtaining documents from Mexico. The judge set a new hearing date and reminded Respondent that, pursuant to the Immigration Court Practice Manual, he needed to file the supporting documentation within 15 days prior to the hearing. Respondent did not submit any additional supporting documentation before the next hearing.

When Respondent and Ramirez-Duran appeared for the next hearing on January 18, 2017, the judge noted that no additional supporting documentation, such as country conditions, had been filed in support of the asylum application. Respondent stated that he had filed a letter on January 13, informing the court that Ramirez-Duran had filed a U-visa petition and that a copy of the mail receipt for the petition, along with a motion to continue, would be submitted to the court.

The judge asked Respondent when he had filed the U-visa petition and Respondent stated on January 14, 2017. Respondent stated that he did not file the U-visa petition earlier because he had been trying to obtain verification from Mexico regarding the relevant crime. Respondent

stated that the crime was committed in the United States and was based on recent threats over the telephone from Ramirez-Duran's husband. Respondent stated that he did not have a law enforcement certification because, as of January 2017, the law enforcement certification was no longer required for U-visa petitions. Respondent did not have a copy of the U-visa petition for the court.

The judge noted that Respondent's January 13, 2017 letter to the court incorrectly stated that the U-visa petition had been filed when in fact the petition was not filed until the next day. The judge confirmed with DHS that a law enforcement certification remained a requirement for filing a U-visa petition. The judge reviewed Respondent's copy of the U-visa petition and noted it would likely be denied because it was not supported by the required documentation. Respondent stated that, until recently, he had been unable to locate Ramirez-Duran because she had moved and changed her phone number. Ramirez-Duran confirmed her change of contact information but stated she had provided the information to Respondent's office months earlier.

The judge inquired if Respondent was prepared to go forward with the hearing. Respondent stated that he was not prepared to go forward with the hearing on the asylum application because he hoped to proceed with the U-visa petition. The judge continued the matter because the record contained no supporting documentation for the asylum application and because the biometrics had not been taken. Ramirez-Duran stated that Respondent never explained the biometrics requirement or that she needed to have biometrics taken.

Minors' Matter[4]

On February 9, 2016, Respondent entered his appearance in this matter. Respondent represented two minors at their immigration hearing who he stated were unaccompanied

[4] These two clients are not identified by name because they are minors.

juveniles who would apply for asylum through U.S. Citizenship and Immigration Services (USCIS). Respondent explained that he would file motions for administrative closure once he filed the applications with USCIS. The judge continued the cases to allow Respondent time to file the asylum applications with USCIS and to file the motions for administrative closure with the court.

On August 30, 2016, Respondent represented the minor clients in court and the judge noted that the motions for administrative closure had not been filed. Respondent explained that the motions had not been filed because the asylum applications had not been properly filed with USCIS. Respondent explained that USCIS had rejected the applications because the required photographs had not been attached. Respondent had no evidence that he had attempted to file the asylum applications.

Elida Veliz Hernandez Matter

On March 7, 2016, Respondent entered his appearance in this matter and appeared with his client, Elida Veliz Hernandez, and her son. Respondent stated that Hernandez and her son would seek asylum. Respondent also stated that he had an application ready to file but informed the judge that he missed the one-year filing deadline from the date his client entered the country. The judge informed Hernandez that Respondent may have committed ineffective assistance of counsel because he did not file the asylum applications prior to the deadline. The judge advised Hernandez to consult with another attorney.

Hector Daniel Alvarez Lopez Matter

On March 26, 2013, Respondent entered his appearance in this matter and on August 27, Respondent and his client, Hector Daniel Alvarez Lopez, appeared for a hearing. Respondent stated that Lopez would seek cancellation of removal. The judge ordered that the cancellation of

removal application and supporting documents be filed by November 25, 2013. Respondent failed to file the application and any supporting documents by the deadline.

On March 7, 2016, Respondent filed an application for cancellation of removal on behalf of Lopez, indicating that Lopez was a lawful permanent resident which was untrue. On July 21, Respondent filed a motion for a continuance because Lopez had married a United States citizen who had filed a petition on Lopez's behalf. The motion stated that Respondent would file a motion for administrative closure once DHS approved the petition.

The judge denied the motion for continuance and on July 25, 2016, Respondent appeared with Lopez at a scheduled hearing. The judge informed Respondent that she had denied his motion for a continuance because it was untimely and she could not ascertain the status of the case. Respondent acknowledged that he had filed the wrong form in Lopez's matter. The judge noted that Lopez had been married since 2013 and inquired why the petition was not filed until 2016. Respondent stated that the previous filing had been returned and that it had taken him this long to get it right.

The judge stated that she could not administratively close the proceedings unless she knew that the petition disclosed that Lopez was in removal proceedings so that it could be processed accordingly. Respondent did not have a copy of the petition. The judge noted that Lopez would need to apply for a waiver of inadmissibility in order to adjust his status should the petition be approved. It was also raised that Lopez had a 2001 conviction for driving under the influence and 2013 arrest for disobedience of a court order. Respondent stated that the 2013 arrest had been closed, but he did not have any evidence to support his assertion.

The matter was continued and Respondent was ordered to file the motion for administrative closure with a copy of the petition and documentation regarding the criminal

history no later than August 24, 2016. On August 25, Respondent filed the motion for administrative closure without any of the attachments requested by the court. On September 16, the judge denied the motion and ordered Respondent to re-file and attach the petition.

On October 6, 2016, Respondent and Lopez appeared for a scheduled hearing. The judge requested a copy of the petition, which Respondent did not have. Respondent stated that he did not realize that he needed to bring a copy of the petition and instead he thought he only needed to bring evidence regarding Lopez's criminal history. The court continued the matter.

Diego Mendoza Matter

On April 7, 2015, Respondent entered his appearance in this matter. Respondent appeared with his client, Diego Mendoza (Diego),[5] at a scheduled hearing and requested a continuance for attorney preparation to determine what relief Diego might seek. The court granted the continuance.

On January 19, 2016, Respondent appeared with Diego for a scheduled hearing. Respondent stated that he had not prepared any application for relief for Diego. Respondent explained that he intended to seek Deferred Action for Childhood Arrivals (DACA) with DHS. The judge asked Respondent if he had ever contacted DHS regarding possible prosecutorial discretion and Respondent stated he had not. The judge ordered Respondent to provide proof within 30 days that the DACA application had been filed and continued the matter. The judge advised that the case would move forward on the new date regardless of whether Respondent filed any application with DHS.

On February 18, 2016, Respondent filed Diego's DACA application with the court. The application did not indicate whether it had been filed with DHS or whether the application fee

[5] This client is identified by his first name because another client has previously been identified as "Mendoza."

had been paid. On November 29, Diego appeared for a hearing and Respondent failed to appear. Diego explained to the court that Respondent had sent him a picture on his phone showing him that there was a proposed suspension against Respondent from the State Bar of California. Respondent did not file a motion to continue or otherwise notify the court he would be absent.

Conclusions

Violations Found in the Immigration Court

The Immigration Court found that Respondent's aforementioned conduct constituted a pattern and practice of the following misconduct:

(1) Engaging in conduct that is prejudicial to the administration of justice or undermines the integrity of the adjudicative process, in violation of 8 C.F.R. section 1003.102(n);

(2) Failing to provide competent representation to Solorio-Franco, Valdovinos Enriquez, Martinez-Rodriguez, Galdamez-De Soriano, Lopez-Nunez, Ramirez-Duran, the minor clients, Hernandez, Lopez, and Diego, in violation of 8 C.F.R. section 1003.102(o); and

(3) Failing to act with reasonable diligence and promptness in representing Solorio-Franco, Valdovinos Enriquez, Martinez-Rodriguez, Galdamez-De Soriano, Lopez-Nunez, Ramirez-Duran, the minor clients, Hernandez, Lopez, and Diego, in violation of 8 C.F.R. section 1003.102(q).

8 C.F.R. section 1003.102, provides, in part, that a practitioner shall be subject to disciplinary sanctions if he or she:

> (n) Engages in conduct that is prejudicial to the administration of justice or undermines the integrity of the adjudicative process. Conduct that will generally be subject to sanctions under this ground includes any action or inaction that seriously impairs or interferes with the adjudicative process when the practitioner should have reasonably known to avoid such conduct;
>
> (o) Fails to provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

> Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners; and
>
> (q) Fails to act with reasonable diligence and promptness in representing a client.

Violations of California Laws

The court finds, as a matter of law, that Respondent's culpability on the aforementioned conduct in the Immigration Court proceeding would warrant the imposition of discipline in California under the laws or rules applicable in this State at the time of Respondent's misconduct in the Immigration Court, as follows.

(1) Rule 3-110(A) [Failure to Perform Legal Services with Competence]

Respondent willfully violated rule 3-110(A) by repeatedly failing to perform competent legal services in the Solorio-Franco, Valdovinos Enriquez, Martinez-Rodriguez, Galdamez-De Soriano, Lopez-Nunez, Ramirez-Duran, the minor clients, Hernandez, Lopez, and Diego matters.

(2) Section 6068(b) [Maintain Respect Due to the Courts]

Section 6068(b) provides that attorneys have a duty to maintain respect due to the courts of justice and judicial officers. Respondent willfully violated section 6068(b) by engaging in a pattern and practice of conduct that, as illustrated above, was prejudicial to the administration of justice or undermined the integrity of the adjudicative process in the Immigration Court.

(3) Section 6103 [Failure to Obey a Court Order]

Section 6103 provides, in pertinent part, that a willful disobedience or violation of a court order requiring an attorney to do or forbear an act connected with or in the course of the attorney's profession, which an attorney ought in good faith to do or forbear, constitutes cause for suspension or disbarment. Respondent willfully violated section 6103 by failing to comply

with court orders in the Valdovinos Enriquez, Martinez-Rodriguez, Lopez-Nunez, and Lopez matters.

Aggravation

OCTC bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct [std.], standard 1.5.) The court finds that OCTC has met its burden with respect to the following aggravating circumstances.

Prior Discipline (Std. 1.5(a))

Respondent has two prior records of discipline. In State Bar Court case no. 14-O-03901, Respondent stipulated to a public reproval, effective June 30, 2015, for violating section 6068(m) (failing to communicate significant developments), and rules 3-110(A) (failure to perform with competence) and 3-310(F) (accepting compensation from someone other than client without the client's informed written consent). This misconduct occurred between December 2013 and May 2014. In aggravation, Respondent committed multiple acts of misconduct. In mitigation, Respondent had no prior record of discipline and entered into a pre-filing stipulation.

In State Bar Court case no. 16-O-10873, Respondent was suspended from the practice of law for one year, stayed, and actually suspended for 30 days, effective March 1, 2017. Respondent stipulated, in a single client matter, to violating sections 6103 (disobeying a court order) and 6068(o)(3) (failing to report discipline to State Bar).[6] This misconduct occurred between April 2015 and February 2016. In aggravation, Respondent had a prior record of discipline, committed multiple acts of wrong doing, and caused significant harm to the administration of justice. In mitigation, Respondent entered into a pre-filing stipulation.

[6] Though Respondent was not charged with failing to competently perform legal services, he stipulated to failing to promptly dismiss a case upon his client's request and knowingly failing to appear at multiple court hearings.

Multiple Acts of Misconduct (Std. 1.5(b))

Respondent's multiple acts of misconduct constitute an aggravating factor. Considering the number of violations involved, the court assigns this factor significant weight in aggravation.

Pattern of Misconduct (Std. 1.5(c))

As stipulated by Respondent, his misconduct before the Immigration Court constituted a pattern and practice of misconduct. His pattern of failing to provide clients with competent representation and failing to act with reasonable diligence was further reflected in case nos. 16-O-14185, et al., as well as in his two prior records of discipline. This pattern of misconduct has spanned from December 2013 to January 2018 and has negatively affected 16 client matters. Consequently, a pattern of misconduct has been established by clear and convincing evidence and the court gives it significant weight. (See *Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149, fn. 14, citing *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1367 [most serious instances of repeated misconduct over prolonged period of time characterized as pattern of misconduct].)

Significant Harm (Std. 1.5(j))

There is clear and convincing evidence that Respondent's misconduct caused his clients significant harm and the court gives this substantial weight. Relating to case no. 17-O-06286, Corvera credibly testified that he came to the United States because he observed police officers and gang members in his home country speaking to each other. They saw him and, a few days later, he was beaten up by police officers. Corvera felt he could not go back to his country under these circumstances. Because of Respondent's failure to handle this matter properly, Corvera missed an opportunity to apply for asylum and instead he was ordered deported. Moreover, Respondent failed to inform Corvera of the deportation order. Corvera testified that he was in Respondent's office, paying additional money for services, on the very same day he was ordered deported and he learned of this fact only after he retained new counsel. Notably, Respondent

confirmed Corvera's testimony by stating that, on the day they were both supposed to appear in Immigration Court in Texas, they were instead in Respondent's office where Respondent took additional money from Corvera and told him "everything was fine and that was basically it."

In relation to case no. 16-O-14185, Soto de la Cruz credibly testified that he hired Respondent to help him file a U-visa petition.[7] Respondent wrote on the petition that Soto de la Cruz was a victim of domestic violence, though Soto de la Cruz had never asserted such a fact. Instead, Soto de la Cruz told Respondent he had been the victim of a violent attack by other parties. Respondent's completion of the petition was flatly wrong. Further, when Soto de la Cruz finally sought new counsel, Respondent repeatedly refused to give Soto de la Cruz or his new attorney the client file. Due to Respondent's mishandling of the case, Soto de la Cruz's petition was severely delayed and at the time of trial, there was no resolution.[8]

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

Respondent was found culpable of failing to refund unearned fees in the Mendoza and Corvera matters. To date, Respondent has not provided a refund to Corvera and there is no indication that he has paid any refund to Mendoza. Accordingly, the court assigns Respondent's failure to make restitution to Mendoza and Corvera moderate weight in aggravation.[9]

High Level of Vulnerability of Victim (Std. 1.5(n))

OCTC has demonstrated by clear and convincing evidence that the many victims of Respondent's actions were highly vulnerable and the court gives this significant weight. As

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[7] Soto de la Cruz met Respondent only once in passing. All of Soto de la Cruz's substantive interactions were with Viesca. As stated above, Respondent had a duty to supervise Viesca and failed to do so.

[8] Soto de la Cruz's wife, Reyes-Aleman, also testified and corroborated his assertions.

[9] Soto de la Cruz testified that Respondent did not refund any portion of the fees he had paid. Respondent, however, was not charged with failing to refund unearned fees in the Soto de la Cruz matter and the evidence is unclear regarding what portion of his fees were unearned. Accordingly, the court does not assign weight in aggravation for failing to make restitution in this matter.

stated above, Respondent stipulated to misconduct spanning several years and relating to numerous clients with immigration matters. These were vulnerable clients who were seeking assistance under extremely difficult circumstances. In some cases, such as Corvera's, the outcome of their immigration proceedings potentially meant the difference between life and death. (See *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, 950 [immigration client status is precarious with potential for serious harm].)

Mitigation

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.) Respondent's attempt at presenting mitigation evidence is limited to these assertions: "I don't have a whole lot to say in my defense. . . . I performed the services I did perform very inexpensively. I charged probably half of what other attorneys charge. . . . That is the only good thing I can say about what I did." As demonstrated by these statements, Respondent has not proven any mitigating circumstances by clear and convincing evidence.

That being said, the court finds, *sua sponte*, that Std. 1.6(e) is applicable in that Respondent was candid at trial about his actions and cooperated with OCTC. Respondent expressed remorse, admitting that he hurt his clients and that, due to his action and inaction, the clients suffered emotional distress. He also admitted he was negligent in failing to check Viesca's background. Moreover, Respondent entered into a comprehensive stipulation of facts and stipulated to the authenticity of all trial exhibits. Ultimately, Respondent admitted to culpability on all the charges in writing and on the record.

The weight the court affords Respondent's candor and cooperation, however, is somewhat diminished by his initial failure to cooperate with OCTC investigators. Nonetheless, Respondent's candor and cooperation at trial warrants moderate consideration in mitigation.

Discussion

The disciplinary analysis begins with the standards, which provide guidance and are intended to promote consistent application of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 91.) Initially, the court considers standard 1.1, which acknowledges that the purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession; to preserve public confidence in the profession; and to maintain high professional standards for attorneys.

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. The most severe sanction is found at standard 2.11 which states that disbarment or actual suspension is the presumed sanction for an act of moral turpitude.

Due to Respondent's prior record of discipline, the court also looks to standard 1.8(b) for guidance. Standard 1.8(b) states, in part, that unless the most compelling mitigation circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct, disbarment is appropriate when an attorney has two prior records of discipline and has been previously ordered to serve a period of actual suspension.

The standards, however, "do not mandate a specific discipline." (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.) It has long been held that the court is "not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, [the Supreme Court is] permitted to temper the letter of the law with considerations peculiar to the offense and the offender." (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) Yet, while the standards are not binding, they are entitled to great weight. (*In re Silverton, supra*, 36 Cal.4th at p. 92.)

OCTC recommended that Respondent be disbarred from the practice of law. In determining the appropriate discipline to recommend in this matter, the court finds some guidance in *In the Matter of Carver* (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 427. In *Carver*, an attorney who had been previously disciplined on two prior occasions, committed moral turpitude by engaging in the unauthorized practice of law.[10] The attorney's significant aggravation outweighed his limited mitigation. In recommending the attorney's disbarment, the Review Department found that the attorney's misconduct demonstrates that he is unable or unwilling to follow ethical rules and that there was no discernable reason to depart from standard 1.8(b).

Similar to *Carver*, this court can find no reason to depart from the presumed discipline of disbarment as outlined in standard 1.8(b). Respondent's egregious and extensive misconduct clearly demonstrates his unwillingness or inability to comply with the ethical rules of this state.

Therefore, having considered the misconduct, the aggravating circumstances, and the limited mitigating 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 Richard Lee Bobus, State Bar Number 250664, be disbarred from the practice of law in California and Respondent's name be stricken from the roll of attorneys.

It is further recommended that Respondent make restitution to the following individuals (or to the Client Security Fund to the extent of any payment from the Fund to any of them, in accordance with Business and Professions Code section 6140.5):

[10] The attorney's two prior disciplines resulted in a public reproval and a 90-day actual suspension.

(1) Maria Elena Mendoza in the amount of $1,400 plus 10 percent interest per year from February 2, 2017; and

(2) Cesar Corvera in the amount of $2,200 plus 10 percent interest per year from August 19, 2017.

California Rules of Court, Rule 9.20

It is further recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.[11]

Costs

It is further 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. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

Order of Involuntary Inactive Enrollment

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, (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

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[11] For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

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: April 11, 2019

MANJARI CHAWLA
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 Court Specialist 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 April 11, 2019, 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:

RICHARD L. BOBUS
ATTORNEY AT LAW
1740 SANTA ROSA AVE
SANTA ROSA, CA 95404

☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

☐ by overnight mail at , California, addressed as follows:

☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.

☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Maria J. Oropeza, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 11, 2019.

George Hue
Court Specialist
State Bar Court