

PUBLIC MATTER

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NOV 22 2016

STATE BAR COURT
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LOS ANGELES

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 16-PM-16601-DFM
)	
CHAKA H. GROSSMAN,)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION AND ORDER OF
Member No. 239941,)	INACTIVE ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Introduction

On September 28, 2016, the Office of Probation of the State Bar of California (Office of Probation) filed a motion to revoke the disciplinary probation of respondent Chaka H. Grossman¹ (Respondent). Although he was properly served with the motion to revoke probation at his State Bar membership-records address by certified mail, return receipt requested² and by regular mail, Respondent did not participate in this proceeding. On October 27, 2016, 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.



¹ Respondent was admitted to the practice of law in California on December 5, 2005, and has been a member of the State Bar of California since that time. As discussed below, Respondent has one prior record of discipline.

² Bus. & Prof. Code, § 6002.1, subd. (c); Rules Proc. of State Bar, rules 5.25, 5.314(A); *Bowles v. State Bar* (1989) 48 Cal.3d 100, 107-108 [service in a State Bar Court proceeding is complete upon mailing]; but see also *Jones v. Flowers* (2006) 547 U.S. 220, 225, 234.

Findings of Fact and Conclusions of Law³

On April 29, 2015, the California Supreme Court filed an order (No. S224516), accepting the State Bar Court's discipline recommendation in case No. 14-O-01966. This discipline was in accordance with a stipulation entered into by Respondent and the State Bar and approved by the State Bar Court on December 22, 2014. The discipline included a two-year stayed suspension and a two-year probation with probation conditions that did not include any period of actual suspension.

The Supreme Court's April 29, 2015, order became effective on May 29, 2015 [Cal. Rules of Court, rule 9.18(a)] and has remained in effect since that time. The order was properly served on Respondent.⁴

On May 8, 2015, the Office of Probation sent a letter to Respondent at his membership-records address, reminding him of the conditions of his two-year disciplinary probation. Thereafter, on July 1, 2015, Respondent and his probation deputy reviewed and discussed the terms and conditions of Respondent's probation in a telephone conversation. Then, as a courtesy, on October 23, 2015, Respondent's probation deputy telephoned Respondent and reminded him that his quarterly report should have been submitted no later than October 10, 2015.

³ Because Respondent failed to file a response to the motion to revoke probation, the factual allegations in the motion and its supporting documents are treated as admissions. (Rules Proc. of State Bar, rule 5.314(C).) The court admits into evidence the declaration of Respondent's assigned probation deputy, which is set forth on pages 8 through 11 of the motion, and exhibits 1, 2, and 3 to the motion. (Rules Proc. of State Bar, rule 5.314(H).)

⁴ In the absence of evidence to the contrary, the court finds that the Clerk of the Supreme Court performed his duty and transmitted a copy of the Supreme Court's order to Respondent immediately after its filing. (Cal. Rules of Court, rule 8.532(a); Evid. Code, § 664; *In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.)

Despite these efforts to make Respondent aware of the conditions of his probation and to secure his compliance with them, Respondent willfully violated the conditions of his probation as follows:

1. Respondent failed to comply with his probation-reporting condition as follows:
 - a. Respondent submitted on October 26, 2015, sixteen days late, the quarterly report due on October 10, 2015;
 - b. He submitted on April 18, 2016, eight days late, the quarterly report due on April 10, 2016; and
 - c. He has never submitted the probation report due on July 10, 2016.⁵
2. Respondent failed to present proof that he attended and passed the State Bar Ethics School, despite the fact that the deadline for such proof was May 29, 2016.

The Office of Probation notes in the motion's supporting documents that, on June 8, 2016, the Review Department filed an order suspending Respondent from the practice of law effective July 5, 2016, because Respondent failed to take and pass the Multistate Professional Responsibility Examination (MPRE) within the time prescribed by the Supreme Court in its April 29, 2015, order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8; Cal. Rules of Court, rule 9.10(b)(2).) Even though Respondent's MPRE suspension is not a prior record of discipline, it is relevant to the issue of discipline in the present proceeding because it is another indication that Respondent is either unwilling or unable to comply with Supreme Court

⁵ The court declines to find that Respondent willfully violated his probation-reporting condition by filing on January 11, 2016, the quarterly report due on January 10, 2016, because January 10, 2016, was a Sunday. (See Code Civ. Proc., §§ 10 [every Sunday is a holiday], 12a, subd. (a) [if the last day to perform an act required by law is a holiday, the period is extended until the next day that is not a holiday], 12b [if a public office is closed for business for the whole day, that day is deemed a holiday], 13 [any secular act, other than a work of necessity or mercy, appointed by law or contract to be performed on a holiday may be performed on the next business day]; Rules Proc. of State Bar, rule 5.28(A) [Code Civ. Proc., §§ 12, 12a, 12b, 13, 13a, and 13b are applicable in the State Bar Court]; accord Cal. Rules of Court, rule 1.10(b) [if the last day to perform an act required by the Rules of Court falls on a Saturday, Sunday, or other holiday, the period is extended until the next day that is not a holiday].)

disciplinary orders. (*In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322, 331; *In the Matter of Farrell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490, 531-532.)

Aggravation

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct,⁶ std. 1.5.) The court finds the following with respect to aggravating circumstances.

Prior Discipline

Respondent has one prior imposition of discipline. As noted above, Respondent was disciplined by the Supreme Court on April 29, 2015, placing Respondent on two years' stayed suspension and two years' probation. In that prior matter, Respondent stipulated to failing to obey an order directing him to pay \$1,500 in sanctions; failing to report the imposition of the sanctions to the State Bar; and failing to cooperate in the State Bar's investigation of the sanction order. In aggravation, Respondent committed multiple acts of misconduct, caused significant harm to the administration of justice, and demonstrated indifference toward rectification of his misconduct. In mitigation, Respondent had eight years' of misconduct-free practice, presented evidence of his good character and pro bono activities, and cooperated with the State Bar by entering into a pre-filing stipulation.

This prior record of discipline is a factor in aggravation. (Std. 1.5(a).)

Multiple Acts of Misconduct

Respondent's present misconduct consists of four separate violations of his disciplinary probation. These multiple acts of misconduct are aggravating factors. (Std. 1.5(b).)

⁶ All further references to standards or stds. are to this source.

Indifference

Respondent's continuing failure to satisfy belatedly his obligations to submit his quarterly report due on July 10, 2016, and to attend and pass the State Bar's Ethics School evidences Respondent's ongoing indifference towards rectification. Such indifference is an aggravating factor. (Std. 1.5(k); *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 702.)

Lack of Cooperation

Respondent's failure to participate in this disciplinary proceeding is also an aggravating factor. (Std. 1.5(l).) Respondent's failure to appear and participate in this proceeding establishes that Respondent fails both to appreciate the seriousness of the charges against him and to comprehend the importance of fulfilling his duty as an attorney to participate in disciplinary proceedings. (Bus. & Prof. Code, § 6068, subd. (i); *Conroy v. State Bar* (1991) 53 Cal.3d 495, 507.) “ “It is well settled that an attorney's contemptuous attitude toward the disciplinary proceedings is relevant to the determination of an appropriate sanction.” ’ [Citation.]” (*Conroy v. State Bar, supra*, 53 Cal.3d at p. 507.)

Mitigation

It was Respondent's burden to establish mitigating factors. (Std. 1.6.) No mitigating factors were shown by the evidence presented to this court.

Discussion

In determining the appropriate level of discipline in a probation revocation proceeding, the court considers the “total length of stayed suspension which could be imposed as an actual suspension” (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) The court also considers the seriousness of the probation violations and the attorney's efforts, if any, to comply with the conditions of probation. (*Ibid.*)

Having considered the foregoing factors, the court concludes that Respondent's probation should be revoked and that Respondent should be actually suspended from the practice of law for a minimum of six months and until he attends and submits proof to the Office of Probation that he has successfully completed the State Bar's Ethics School. (*In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302; *In the Matter of Luis* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 737; cf. *In the Matter of Parker* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 747.) Further, if Respondent remains suspended for two years or longer, Respondent must provide proof to the State Bar Court of his rehabilitation, fitness to practice, and present learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).) Finally, the court recommends that Respondent be placed again on two years' probation with the additional conditions set forth below.

Recommendations

Discipline

The court recommends that the probation imposed on respondent **Chaka H. Grossman** on April 29, 2015, in Supreme Court order No. S224516 (State Bar Court case No. 14-O-01966) be revoked; that Respondent be suspended from the practice of law for two years; that execution of that two-year period of suspension be stayed; and that Respondent be placed on a two-year period of probation subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first six months of probation, and he will remain suspended until the following condition are satisfied:
 - i. Respondent submits to the State Bar's Office of Probation satisfactory evidence of his completion of the State Bar's Ethics School and his passage of the test given at the end of the session.
 - ii. If Respondent remains suspended for two years or more as a result of not satisfying the preceding condition, he must also provide proof to the State Bar Court of his rehabilitation, fitness to practice, and present learning and ability in the general law before the suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of Respondent's probation.
3. Within 30 days after the effective date of the Supreme Court order in this proceeding, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss the terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy, either in person or by telephone. Respondent must promptly meet with the probation deputy as directed and upon request.
4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including Respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, Respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
5. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of Respondent's probation during the preceding calendar quarter.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.

6. Subject to the assertion of applicable privileges, Respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation that are directed to Respondent personally or in writing, relating to whether Respondent is complying or has complied with Respondent's probation conditions.
7. Respondent's new two-year probation, including Respondent's minimum six months' actual suspension, will begin on the effective date of the Supreme Court order in this proceeding. At the expiration of the new two-year period of probation, if Respondent has complied with all the conditions of probation, Respondent will be relieved of the stayed suspension.

California Rules of Court, Rule 9.20

The court further recommends 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.⁷

Multistate Professional Responsibility Examination

The court does not recommend that Respondent be again ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) as he was previously ordered to do so in the Supreme Court's April 29, 2015, order and will remain ineligible to practice until he does so.

Costs

Finally, the court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Order of Involuntary Inactive Enrollment

Respondent **Chaka H. Grossman**, State Bar number 239941, is ordered to be involuntarily enrolled inactive under Business and Professions Code section 6007, subdivision (d)(1).⁸ This inactive enrollment order is effective three calendar days after the date this order is served by mail.

Dated: November 22 2016.



DONALD F. MILES
Judge of the State Bar Court

⁷ Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

⁸ Any period of involuntary inactive enrollment will be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 22, 2016, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO REVOKE PROBATION AND ORDER OF
INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

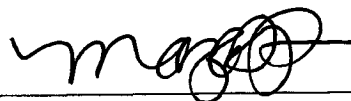
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CHAKA H. GROSSMAN
LAW OFFICES OF C. H. GROSSMAN
9025 WILSHIRE BLVD STE 503
THE PENTHOUSE SUITE
BEVERLY HILLS, CA 90211

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

TERRIE GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 22, 2016.



Mazie Yip
Case Administrator
State Bar Court