

PUBLIC MATTER

FILED
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MAY 19 2017

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of

SAMUEL ROBERT SPIRA,

A Member of the State Bar, No. 175983.

) Case No.: 17-PM-02210-DFM

) ORDER GRANTING MOTION TO
) REVOKE PROBATION AND ORDER OF
) INVOLUNTARY INACTIVE
) ENROLLMENT
)

Introduction

On April 18, 2017, the Office of Probation of the State Bar of California (Office of Probation) filed a motion to revoke the disciplinary probation that the California Supreme Court imposed on respondent Samuel Robert Spira¹ (Respondent) in its order No. S233401 (State Bar Court case No. 15-O-11209.) Even though Respondent was properly served with the motion to revoke his probation at his State Bar official membership records address by certified mail, return receipt requested² and by regular mail, he did not participate in this proceeding. On May 16, 2017, 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 March 14, 1995, 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].



Findings of Fact and Conclusions of Law³

On June 9, 2016, the California Supreme Court filed an order in case No. S233401, accepting the State Bar Court's discipline recommendation in State Bar Court case No. 15-O-11209. In that order, Respondent was suspended for one year, stayed; and placed on probation for one year subject to conditions of probation not including any period of actual suspension. That discipline resulted from Respondent's misrepresentation to the State Bar that he had completed his 25 hours of Minimum Continuing Legal Education (MCLE), when, in fact, he had not – an act of moral turpitude in willful violation of Business and Professions Code section 6106. The Supreme Court's order became effective thirty days after it was filed [Cal. Rules of Court, rule 9.18(a)] and it has remained in effect since that time. The order was properly served on Respondent.⁴

On July 1, 2016, after the Supreme Court order was filed but before Respondent's discipline became effective, he was sent a letter by his assigned probation deputy, outlining the various tasks that Respondent was required to complete pursuant to the Supreme Court's order and providing the specific deadlines, instructions, and sample forms for doing so.

As one of the conditions of his probation, Respondent was required, within thirty (30) days from the effective date of his discipline, i.e by August 8, 2016, to contact the Office of Probation and schedule a meeting with his probation deputy to discuss the terms and conditions of his probation and then meet with the probation deputy upon the direction of the Office of

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 7 through 10 of the motion, and the exhibits attached to the present 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.)

Probation. Despite this obligation, Respondent has not contacted the Office of Probation and no meeting has been held.

As another condition of Respondent's probation, he has been obligated to submit quarterly reports to the Office of Probation on or before each January 10, April 10, July 10 and October 10 during the period of his probation. Respondent has repeatedly not complied with this condition in that he has failed to file his first three quarterly reports coming due during his probation, those due on October 10, 2016, January 10, 2017, and April 10, 2017.

Aggravation

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Std. 1.5.) The court finds the following with respect to aggravating circumstances.

Prior Discipline

Respondent has one prior imposition of discipline. This prior record of discipline is a factor in aggravation. (Std. 1.5(a).)

As noted above, in its order of June 9, 2016, the Supreme Court suspended Respondent for one year, stayed; and placed him on probation for one year. His misconduct there was a willful violation of section 6106 of the Business and Professions Code.

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.*) Here, the nature of Respondent’s probation violations are serious and reflect a total disregard by him for this disciplinary process or his need to comply with his professional obligations. This conclusion is buttressed by his disregard and failure to participate in this resulting disciplinary proceeding.

Having considered the foregoing factors, the court concludes that Respondent’s present probation violations warrant the greatest level of discipline permissible, which is the imposition of an actual suspension equal to the period of stayed suspension imposed on Respondent in the Supreme Court’s June 9, 2016, order. (Rules Proc. of State Bar, rule 5.312; *In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540; *In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 531.)

Recommendations

Discipline

The court recommends that the probation imposed on respondent **Samuel Robert Spira**, State Bar No. 175983, in the Supreme Court’s order of June 9, 2016, in case No. S233401 (State

Bar Court case No. 15-O-11209) be revoked and that Respondent be actually suspended from the practice of law for one year.

Probation

It is further recommended that Respondent be placed on probation for one year on the following conditions:

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.

Multistate Professional Responsibility Examination

It is not recommended that Respondent be again ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) during the period of his suspension as he was previously ordered to do so in the Supreme Court's order of June 2016.

California Rules of Court, Rule 9.20

The court further recommends that Respondent be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in this matter.

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

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.

Accordingly, **Samuel Robert Spira**, State Bar No. 175983, is ordered to be involuntarily enrolled inactive under section 6007, subdivision (d)(1).⁵ This inactive enrollment order will be effective three calendar days after the date on which this order is served.

Dated: May 19, 2017



DONALD F. MILES
Judge of the State Bar Court

⁵ The court recommends that any period of involuntary inactive enrollment 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 May 19, 2017, I deposited a true copy of the following document(s):

**ORDER GRANTING MOTION TO REVOKE PROBATION AND ORDER
OF INVOLUNTARY INACTIVE ENROLLMENT**

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

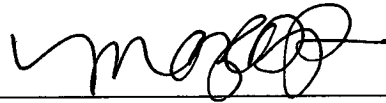
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SAMUEL R. SPIRA
8265 W SUNSET BLVD STE 205
WEST HOLLYWOOD, CA 90046

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

TERRIE L. GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 19, 2017.



Mazie Yip
Case Administrator
State Bar Court