



PUBLIC MATTER

FILED

MAY 25 2017

P.B.

**STATE BAR COURT
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LOS ANGELES**

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 17-PM-02211-CV
)	
CLIFFORD NELSON SCHUSTER,)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION AND ORDER
A Member of the State Bar, No. 152164)	OF 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 probation of Clifford Nelson Schuster (respondent). Although he was properly served with the motion to revoke probation by certified mail, return receipt requested, and by regular mail at his State Bar membership records address, respondent did not participate in this proceeding. On May 22, 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.

Findings of Fact and Conclusions of Law

On April 28, 2016, the California Supreme Court filed an order, S231416, accepting the State Bar Court's discipline recommendation in case No. 15-O-11208, in which respondent stipulated to one count of misconduct. In that matter, respondent stipulated that he committed an act involving moral turpitude through gross negligence by inaccurately reporting, under penalty of perjury, that he was in compliance with his Minimum Continuing Legal Education (MCLE) requirements. The discipline included a one-year stayed suspension, a one-year period of

probation, and a thirty-day period of actual suspension. This order was properly served on respondent and became effective on May 28, 2016.¹ In addition, a copy of the stipulation and this court's order approving the same had previously been properly served on respondent on November 3, 2015.

On June 9, 2016, the Office of Probation sent respondent a reminder letter regarding the probation conditions at his official membership address. This letter was not returned as undeliverable or for any other reason.

On September 28, 2016, the Office of Probation sent respondent, at his official membership address, a letter noting his non-compliance with multiple probation conditions. A copy of this letter was also emailed to respondent.

On September 29, 2016, respondent called the Office of Probation and left a voicemail in response to the non-compliance letter. Respondent stated that he had been dealing with personal issues but would be available that next day.

On September 30, 2016, the Office of Probation called respondent and left a voicemail. On October 4, 2016, respondent called the Office of Probation and left another voicemail stating that he was trying to begin the process. The Office of Probation returned respondent's call that same day and left another voicemail. There is no indication in the record that respondent had any subsequent communication with the Office of Probation.

Despite these efforts to make respondent aware of the conditions of his probation and to secure his compliance with them, respondent did not comply with the following probation conditions:

¹ In the absence of evidence to the contrary, the court finds that the Clerk of the Supreme Court performed his or her duty by transmitting a copy of the Supreme Court's order to respondent immediately after its filing. (Rule 8.532(a), Cal. Rules of Court; Evid. C. §664; *In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.)

(a) Within 30 days from the effective date of the discipline, respondent was required to contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation. Respondent did not contact the Office of Probation within 30 days of the effective date of his discipline – on or before June 27, 2016. He also failed to schedule a meeting with his assigned probation deputy to discuss the terms and conditions of his probation.

(b) During the period of probation, respondent was required to submit written quarterly reports to the Office of Probation on January 10, April 10, July 10, and October 10 of each year, or part thereof during which the probation was in effect, stating under penalty of perjury that he had complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period. Respondent failed to file his first four quarterly reports, which were due July 10, 2016; October 10, 2016; January 10, 2017; and April 10, 2017.

Aggravation

Prior Discipline

Respondent's prior record of discipline is a factor in aggravation. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,² std. 1.5(a).) Respondent has one prior imposition of discipline.

In the underlying matter, the Supreme Court, on April 28, 2016, filed an order in case No. S231416 (State Bar Court case No. 15-O-11208) suspending respondent from the practice of law for one year, staying execution of the suspension, and placing him on probation for one year, including a 30-day period of actual suspension. As noted above, respondent stipulated that he committed an act involving moral turpitude through gross negligence by inaccurately reporting, under penalty of perjury, that he was in compliance with his MCLE requirements. In mitigation,

² Future references to standard or std. are to this source.

respondent entered into a pretrial stipulation and had no prior record of discipline. No aggravating circumstances were involved.

Multiple Acts of Misconduct

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

Mitigation

It was respondent's burden to establish mitigating factors. No mitigating factors were shown by the evidence presented to this court.

Discussion

The extent of the discipline to be recommended is dependent, in part, on the seriousness of the probation violation, the member's recognition of the misconduct, and the member's prior efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) Having considered these factors, the court concludes that actual suspension for one year, as requested by the Office of Probation, is both required and sufficient to protect the public in this instance. Respondent was aware of the terms and conditions of his disciplinary probation, yet did not comply with them despite reminders from the Office of Probation. His failure to participate in this proceeding is also a matter of considerable concern to this court.

Recommended Discipline

Accordingly, the court recommends as follows:

1. That the probation of respondent Clifford Nelson Schuster previously ordered in Supreme Court case No. S231416 (State Bar Court case No. 15-O-11208) be revoked;
2. That the previous stay of execution of the suspension be lifted; and
3. That respondent be actually suspended from the practice of law for one year.

California Rules of Court, Rule 9.20

It is further recommended that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

Multistate Professional Responsibility Examination

It is not recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination as he was previously ordered to do so in Supreme Court case No. S231416.


Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Order of Involuntary Inactive Enrollment

Respondent is ordered to be involuntarily enrolled inactive under Business and Professions Code section 6007, subdivision (d)(1).³ This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: May 25, 2017



CYNTHIA VALENZUELA
Judge of the State Bar Court

³Any 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 May 25, 2017, 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:

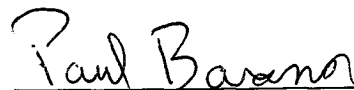
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**CLIFFORD N. SCHUSTER
5984 E AVENIDA LA VIDA
ANAHEIM, CA 92807**

- 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 25, 2017.



Paul Barona
Case Administrator
State Bar Court