

PUBLIC MATTER

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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – SAN FRANCISCO STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

In the Matter of)	Case No.: 16-PM-16982-LMA
)	
DAVID CURTIS HOLLINGSWORTH,)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION AND ORDER OF
Member No. 203887)	INACTIVE ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Introduction

On October 19, 2016, the Office of Probation of the State Bar of California (Office of Probation) filed a motion to revoke the probation of David Curtis Hollingsworth (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 November 15, 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.

Findings of Fact and Conclusions of Law

On November 20, 2014, the California Supreme Court filed an order, S221836, accepting the State Bar Court's discipline recommendation in case No. 12-O-10185, in which Respondent stipulated to two counts of misconduct in a single client matter, including failing to deposit client funds in trust and failing to comply with the conditions attached to an Agreement in Lieu of



Discipline (ALD).¹ The discipline included a one-year stayed suspension and two years' probation. This order was properly served on Respondent and became effective on December 20, 2014.² In addition, a copy of the stipulation and this court's order approving the same had previously been properly served on Respondent's then-attorney on July 11, 2014.

On December 5, 2014, 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 January 27, 2015, the Office of Probation conducted a meeting with Respondent to review the terms and conditions of his probation. At this meeting, the Office of Probation discussed with Respondent the reporting schedule and requirements. Respondent was advised that if he could not timely meet his deadlines, he could file a motion.

Between April and October 2015, Respondent and his probation deputy communicated back and forth regarding the terms of probation – typically leaving telephone messages for one another. On October 15, 2015, the Office of Probation received a fax from Respondent apologizing for his late October 2015 quarterly report and indicating that he has been in and out of the hospital due to a motorcycle accident. In January 2016, Respondent again turned in his quarterly report late. After Respondent failed to file his next two quarterly reports, his probation deputy mailed him a letter, on August 24, 2016, setting forth Respondent's non-compliance with the terms of his probation. This letter was sent to Respondent's official membership address and was not returned as undeliverable or for any other reason.

¹ Respondent's violation of the terms of his ALD included, among other things, a failure to timely submit four quarterly reports.

² 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.)

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 all of his probation conditions. 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 filed his October 10, 2015 quarterly report late on October 15, 2015; he filed his January 10, 2016 quarterly report late on January 22, 2016; and he did not file his next three quarterly reports, due April 10, 2016; July 10, 2016; and October 10, 2016.

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,³ std. 1.5(a).) Respondent has one prior imposition of discipline.

In the underlying matter, the Supreme Court, on November 20, 2014, filed an order in case No. S221836 (State Bar Court case No. 12-O-10185) suspending Respondent from the practice of law for one year, staying execution of the suspension, and placing him on probation for two years. In this matter, Respondent stipulated to two counts of misconduct in a single client matter, including failing to deposit client funds in a trust account and failing to comply with the conditions attached to an ALD. In mitigation, Respondent entered into a pretrial stipulation, demonstrated his good character, performed many years of pro bono work/community service, and had no prior record of discipline. In aggravation, Respondent committed multiple acts of misconduct.

³ Future references to standard or std. are to this source.

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 David Curtis Hollingsworth previously ordered in Supreme Court case No. S221836 (State Bar Court case No. 12-O-10185) 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. S221836.

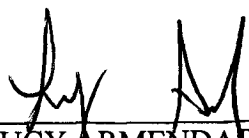
Costs

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).⁴ This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: December 1, 2016



LUCY ARMENDARIZ
Judge of the State Bar Court

⁴Any 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 San Francisco, on December 1, 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:

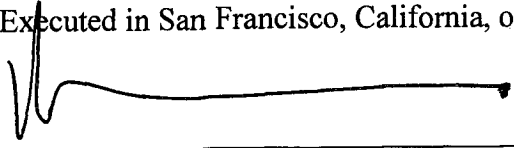
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DAVID C. HOLLINGSWORTH
LAW OFFICE OF DAVID C.
HOLLINGSWORTH
4617 N WEST AVE
FRESNO, CA 93705

- 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 San Francisco, California, on December 1, 2016.



Vincent Au
Case Administrator
State Bar Court