

PUBLIC MATTER

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES**

FILED

P.S.
OCT 11 2018

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of)	Case No. 17-C-06508-CV
)	
SANAM ALICIA NIKKHOO,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 297290.)	ENROLLMENT
_____)	

Introduction

This matter is before the court on an order of referral filed by the Review Department of the State Bar Court on March 21, 2018, for a hearing and decision recommending the discipline to be imposed as a result of the conviction of respondent Sanam Alicia Nikkhoo (Respondent) of a violation of Penal Code section 530.5, subdivision (a) (identity theft), a misdemeanor involving moral turpitude. (Cal. Rules of Court, rule 9.10(a); Rules Proc. of State Bar, rule 5.340 et seq.)

In light of Respondent's conviction of a crime involving moral turpitude, and after considering the facts and circumstances surrounding the conviction, as well as the serious aggravating circumstances, including multiple acts of wrongdoing, indifference toward rectification/atonement, dishonesty, and lack of candor, the court recommends that Respondent be disbarred.

Significant Procedural History

On October 10, 2017, a criminal complaint was filed in Orange County Superior Court, Case No. 17CM09641, charging Respondent with one count of violating Penal Code section 530.5, subdivision (a) [identity theft], a misdemeanor. It was alleged that Respondent "did

willfully and unlawfully obtain personal identifying information . . . of [victim], and did unlawfully use and attempt to use that information for an unlawful purpose, specifically ACCESS CARD FRAUD AND [the] FILING OF FALSE DOCUMENTS WITH THE COURT, without the consent of [the victim].”¹

On December 6, 2017, Respondent pled nolo contendere to the single count of violating Penal Code section 530.5, subdivision (a). The Court suspended imposition of sentence and placed respondent on two years of informal probation on conditions including that she (1) serve four days in the county jail; (2) complete 48 hours of community service, (3) pay restitution in the amount of \$616, plus interest, to Natasha Johnson; and (4) have no contact with Ms. Johnson. She was also required to pay certain court fines and fees.

On January 17, 2018, the Office of Chief Trial Counsel of the State Bar of California (OCTC) transmitted, to the State Bar Court Review Department, a certified copy of Respondent’s 2017 conviction. OCTC set forth the classification of the crime as one in which there is probable cause to believe the crime involved moral turpitude.

On January 30, 2018, OCTC transmitted to the review department notice of the finality of Respondent’s conviction.

On February 21, 2018, the review department filed an order noting that it had previously classified the crime of identity theft (Penal Code section 530.5, subdivision (a)) as involving moral turpitude per se and requiring OCTC “to provide further analysis and legal support regarding its contention that respondent’s conviction of Penal Code section 530.5, subdivision (a), involves probable cause to believe that moral turpitude is involved.” OCTC filed its response to the review department’s order on February 23, 2018. In its response, OCTC noted

¹ Criminal complaint attached to the Transmittal of Records of Conviction of Attorney filed January 17, 2018.

that it had no objection to the court classifying this conviction as one involving moral turpitude as a matter of law.

Thereafter, on March 21, 2018, the review department filed an order suspending Respondent from the practice law effective April 15, 2018, pending final disposition of this matter, in light of Respondent's conviction of violating Penal Code section 530.5, subdivision (a) [identity theft], a misdemeanor involving moral turpitude. The review department also referred this matter to the hearing department for a hearing and decision recommending the discipline to be imposed.

On March 23, 2018, this court filed and served on Respondent a Notice of Hearing on Conviction (NOH). (Rules Proc. of State Bar, rule 5.345(A).) On April 16, 2018, Respondent filed her response to the NOH.

On July 12-13, 2018, the matter proceeded to a two-day trial regarding the level of discipline. On July 12, 2018, the parties filed a Stipulation of Facts, Conclusions of Law, and Admission of Documents. The court took the matter under submission for decision on July 13, 2018. Closing briefs were filed by the parties on July 27, 2018.

Findings of Fact and Conclusions of Law

Jurisdiction

Respondent was admitted to the practice of law in California on June 6, 2014, and has been a member of the State Bar of California since that time.

Facts

Background

At all times herein referenced, Respondent maintained a residence at 16014 Legacy Road, Unit 214, Tustin, CA 92782.

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Consumer Litigation Law Center and September Katje²

From October 2014 to February 2016, Respondent worked for Premier Legal Works (PLW), a legal staffing company, on a long-term temporary assignment with the Consumer Litigation Law Center, APC (CLLC) and Homeowner Rights Law Group (HRLG), both owned by September Katje (Katje).

In or around February 2016, CLLC and HLRG moved its offices from West Covina to Anaheim. Correlated with the move, Respondent left employment with PLW and joined CLLC as an independent contractor attorney.

As part of the move, Respondent purchased, and had delivered to her residence on Legacy Road, eight computers for CLLC. Each of the eight computers were transported to CLLC's Anaheim office and installed for law office usage.

Respondent submitted an Expense Reimbursement Form for \$8,281.38, covering the period of February 15, 2016 to March 31, 2016, to Ms. Katje for the purchase of the eight computers, as well as additional items purchased for the new office. Respondent was reimbursed by CLLC for the cost of all purchased items. In addition to purchasing the computers, Respondent was tasked with setting up the computers and downloading client files to storage on Google drive. Passwords to the drive were similar and shared between the six people who worked at CLLC.

Ms. Katje initially found Respondent to be a good attorney, and considered her a friend. However, soon after Respondent joined CLLC as an independent contractor, Respondent's behavior drastically changed. Respondent "started dropping the ball"³ on assignments, left

² Although this matter was not the basis for the conviction, this matter is discussed as part of the "facts and circumstances" surrounding Respondent's conviction of identity theft in connection with the Johnson matter, *infra*.

³ Testimony of Ms. Katje.

clients at court hearings, lied to Ms. Katje about appearing for court hearings late when, in fact, court staff confirmed that Respondent never appeared at all, stopped returning telephone calls, and appeared at work disheveled, very sweaty, and would sleep under her desk. For these reasons, Ms. Katje gave Respondent a written warning, and ultimately terminated Respondent's independent contractor agreement on July 27, 2016.

Within an hour after her termination, all of the client files from the Google drive could be seen in the "current activity column" as going from the office account to Respondent's account. For this reason, Ms. Katje changed the passwords, but the transfer of files happened again and, ultimately, thousands of files were downloaded remotely by Respondent.

Thereafter, Respondent left voice mail messages requesting access to her personal items that were left at the office.⁴ Ms. Katje responded to Respondent in writing through electronic mail. Ms. Katje demanded that Respondent return the client files before she would return Respondent's personal items. Respondent denied the unauthorized downloading of the files and denied having electronic copies of the firm's client files. Yet, on September 20, 2016, Respondent provided Ms. Katje with a zip drive of the files that she denied having.

On September 21, 2016, Respondent visited the CLLC office to pick up her personal property left at the office on the date of termination and acknowledged receipt of the items received.

After Respondent's termination, Ms. Katje noticed "odd charges" for Starbucks e-gift cards on her account. She thought it was odd because whenever she bought Starbuck gift cards, she would purchase them at the nearby Vons grocery store. As she investigated further, Ms. Katje saw eight charges for \$25 cards and additional charges for \$30 cards. The cards were sent to the email address sarahsong82@gmail.com. The IP address sarahsongs82@gmail.com is tied

⁴ The court found Ms. Katje's testimony credible.

to Respondent.⁵ Respondent improperly bought the Starbucks e-gift cards on Ms. Katje's account without Ms. Katje's knowledge or consent.

While acting as an independent contractor for CLLC, Respondent appeared as the attorney of record on behalf of CLLC for the firm's clients Randy and Sue Haddad in Orange County Superior Court case *Haddad, et. al v. Bank of America, N.A., et. al*, case no. 30-2015-00803674.

On August 5, 2016, Randy and Sue Haddad signed substitution of attorney forms replacing Ms. Katje with Respondent. Ms. Katje signed the substitution of attorney forms on August 7, 2016.⁶

Natasha Johnson

Respondent was introduced to Natasha Johnson through a mutual friend. Ms. Johnson had a vacant office in her brokerage firm on Aspan Street in Lake Forest, California. Respondent informed Ms. Johnson that she was then-currently without an office, and Ms. Johnson offered Respondent the use of the vacant office for a short period at no cost. Ms. Johnson gave Respondent a key to the office.

Ms. Johnson testified at trial regarding the relationship between she and Respondent. Ms. Johnson explained that their friendship formed quickly and she felt like Respondent was family. Respondent's parents treated her and Respondent to a spa day. Respondent lent her \$600 for partial payment on a Mercedes, purchased meals for Ms. Johnson and her brother, bought her a purse, and offered her the rental of Respondent's parents' vacation home on Tennis Villa Drive in Laguna Beach/Dana Point. Ms. Johnson signed a lease agreement for the rental of the

⁵ Investigator Sandler testified credibly regarding the IP address re: sarahsongs82@gmail.com which clearly and convincingly ties the email address to Respondent.

⁶ This is related to Respondent's conviction because it is in this client matter that Respondent filed false documents with the court resulting in her criminal conviction.

vacation home and provided the signed lease to Respondent but never moved into it.⁷

Respondent also offered to assist Ms. Johnson with obtaining a lower auto insurance rate and requested and received Ms. Johnson's email and password, ostensibly, to set up an on-line profile in furtherance of that goal.

Respondent began using Ms. Johnson's personal information to access various of Ms. Johnson's accounts and to purchase items for herself. Respondent engaged in unauthorized transactions on Ms. Johnson's Best Buy, Macy's and PayPal accounts.

On August 5, 2016, a Polaroid Cube Lifestyle HD was purchased on Ms. Johnson's account at Best Buy without her knowledge or consent. The purchaser was listed as "Sanam Nikkhoo" with a shipping address that matches Respondent's membership records address in Tustin.

On August 7, 2016, a pair of headphones totaling \$97.19 was purchased from Best Buy on Ms. Johnson's account without her knowledge or consent. The purchaser was listed as "Sanam Nikkhoo" with a shipping address that matches Respondent's membership records address in Tustin, and with an email address of sanikkhoo@yahoo.com.

On August 10, 2016, the following items were purchased from Best Buy on Ms. Johnson's account without her knowledge or consent: a Samsung EVO UHS memory card, and a SanDisk Extreme Plus memory card. The purchaser was listed as "Sanam Nikkhoo" with a shipping address that matches Respondent's membership records address in Tustin, and with an email address of sanikkhoo@yahoo.com.

On August 21, 2016, Respondent used Natasha Johnson's personal information to purchase an HP Pavillion 23" Touch-Screen All-In-One – 8GB Memory – 1 TB hard drive. The total cost was \$615.59. When Respondent purchased said computer, she did not have and knew

⁷ It is the signature from this lease that Respondent cut and pasted onto the documents filed with the court in the *Haddad* matter and that is the basis, in part, of her conviction.

she did not have Ms. Johnson's authority or consent to use her personal information. Said computer was the computer seized by the Orange County Sheriff's Department during a warrant search on October 12, 2016, and was the subject, in part, of the criminal complaint filed against Respondent.

On August 23, 2016, a GoPro HERO waterproof action camera totaling \$215.99 was purchased from Best Buy on Ms. Johnson's account without her knowledge or consent. The purchaser was listed as "Sanam Nikkhoo" with a shipping address in Lake Forest that is Ms. Johnson's business address, and with an email address of sanikkhoo@yahoo.com. Ms. Johnson never received the camera at her business office.

On August 23, 2016, a wireless keyboard and mouse totaling \$48.59 was purchased from Best Buy on Ms. Johnson's account without her knowledge or consent. The purchaser was listed as "Sanam Nikkhoo" with a shipping address that matches Respondent's membership records address in Tustin, and with an email address of sanikkhoo@yahoo.com.

On August 23, 2016, at approximately 1:00 a.m., Respondent accessed Ms. Johnson's PayPal account and transferred \$50 from that account to Respondent's own PayPal account. A \$1,500 payment was attempted first, but was declined. Respondent also sent \$103.20 payable to Sarah Songs at the Tennis Villa Drive, Dana Point address.⁸ Ms. Johnson did not know or consent to these transactions.

On or about August 25, 2016, Ms. Johnson was alerted by Macy's customer service that her email address had been updated and that a \$100 gift card had been charged to the card and sent to Respondent without Ms. Johnson's knowledge or consent. Ms. Johnson then checked her Nordstrom account and learned that her access was blocked following too many failed log-in attempts by someone other than herself.

⁸ This is Respondent's parents' vacation home.

On or about August 26, 2016, and again on August 28, 2016, Ms. Johnson confronted Respondent about the various fraudulent charges. Respondent denied that she had engaged in fraudulent activity. Thereafter, Ms. Johnson filed an identity theft crime report against Respondent with the Orange County Sheriff's Department.

On October 12, 2016, the lead investigator, Rene De La Rosa, and approximately five to seven members of the Economic Crime Detail conducted a lawful search pursuant to a warrant at Respondent's home.

During the search, Respondent was interviewed by investigator De La Rosa and lied to him regarding a number of matters, including, that (1) Respondent quit PLW in July to start her own practice; (2) the computer seized from Respondent's office was one that she had purchased for CLLC during their office move; (3) the computers Respondent purchased for CLLC were sent to the Anaheim office and not her home address; (4) Respondent took the CLLC computer with her when she left the firm because she had paid for it with her own money; (5) no one, including Ms. Katje, at CLLC would have knowledge that Respondent bought computers for the office because Respondent was the managing attorney; (6) Ms. Johnson did not specify what she believed Respondent stole when Ms. Johnson accused Respondent of stealing things and asked her to leave; (7) Respondent did not have Sarah Songs' email addresses on her telephone; and (8) Respondent did not know Sarah Songs, and did not use that name as an alias, and she did not know how Sarah Songs's information was on her personal electronic devices. During trial, Respondent admitted to lying to Investigator De La Rosa, but explained that it was because she was "not thinking rationally"⁹ as she was in pain and recovering from surgery, and in shock

⁹ Testimony of Respondent.

because “police were destroying my home and taking my electronics, and 15 large men were invading my privacy.”¹⁰

Court Filings

On August 19, 2016, Respondent electronically filed four documents with the Orange County Superior Court in *Haddad, et. al v. Bank of America, N.A., et. al*, case no. 30-2015-00803674. The documents filed included:

- a Substitution of Attorney form for Randy Haddad replacing Ms. Katje with Respondent;
- a Substitution of Attorney form for Sue Haddad replacing Ms. Katje with Respondent;
- a Proof of Service form regarding mail service of a Substitution of Attorney-Civil form. The Proof of Service form alleged that Natasha Johnson served the listed parties by mail with the document Substitution of Attorney-Civil and declared that the document was signed under the penalty of perjury by Ms. Johnson; and
- a Proof of Service form regarding mail service of a Case Management Conference Statement. The Proof of Service form alleged that Natasha Johnson served the listed parties by mail with the Case Management Conference Statement and declared that the document was signed under the penalty of perjury by Ms. Johnson.

Ms. Johnson did not sign any of the legal documents listed above. She noted that the top of the signature is cut off, and “it looks like it was cut and pasted.”¹¹

¹⁰ Testimony of Respondent.

¹¹ Testimony of Ms. Johnson. The court found Ms. Johnson’s testimony credible.

Ms. Haddad sought out and chose to have Respondent continue to represent her when Respondent left Ms. Katje's firm. She visited Respondent at Respondent's office and met Ms. Johnson and had a fairly long conversation with her. Ms. Haddad could not recall witnessing Ms. Johnson sign the various pleadings.

On August 23, 2016, Respondent electronically filed two documents with the Orange County Superior Court in *Haddad, et. al v. Bank of America, N.A., et. al*, case no. 30-2015-00803674. The documents filed included:

a. a Notice of Motion and Motion for Leave to Amend the Second Amended Complaint;
and

b. a Proof of Service form regarding mail service of a Notice of Motion and Motion for Leave to Amend the Second Amended Complaint. The Proof of Service form alleges that Natasha Johnson served the listed parties by mail with said notice and motion, and declared that the document was signed under the penalty of perjury by Ms. Johnson.

The signatures of Ms. Johnson on the pleadings filed with the court were enlarged and cut and pasted onto the pleadings. Ms. Johnson's true signature on the lease agreement for Respondent's parents' vacation home was lifted and used on the pleadings after modification. Respondent, or someone at her direction, lifted Ms. Johnson's signature on the lease and cut and pasted it on the proof of service forms which Respondent then filed electronically with the court in the *Haddad* matter.

The browsing history on Respondent's cell phone included: Best Buy, Nordstrom, Macy's, and multiple visits to PayPal. In the cell phone, there were also multiple references to

Sarah Songs and the common passwords used by Respondent. Finally, in the “passwords” section of Respondent’s phone were references to Natasha Johnson’s name.¹²

Conclusions

Moral Turpitude

In attorney disciplinary proceedings, “the record of [an attorney's] conviction [is] conclusive evidence of guilt of the crime of which he or she has been convicted.” (Bus. & Prof. Code § 6101.) Respondent is conclusively presumed, by the record of her 2017 conviction, to have committed all the acts necessary to constitute the crime of which she was convicted (i.e., identity theft in violation of Penal Code section 530.5 subdivision (a)). (*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.) Respondent’s conviction involved moral turpitude per se. Furthermore, the parties stipulated that Respondent’s conviction of violating Penal Code section 530.5, subdivision (a), is deemed to involve moral turpitude per se.

Aggravation¹³

The State Bar must establish aggravating circumstances by clear and convincing evidence. (Std. 1.5.) The court finds three aggravating circumstances.

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¹² Investigator Goldsmith, a computer forensics examiner/expert, testified that the signatures of Ms. Johnson on the pleadings filed with the court appear to be enlarged and cut and pasted onto the pleadings. He compared the signatures to that of Ms. Johnson’s true signature from the lease agreement and testified credibly that he concluded that that signature was lifted and used on the pleadings after modification. He also testified that he did a search of Respondent’s cell phone and found the browsing history to include: Best Buy, Nordstrom, Macy’s, and multiple visits to PayPal. In the cell phone, he also found multiple references to Sarah Songs and the common passwords used by Respondent. Finally, in the “passwords” section of Respondent’s phone, he found references to Natasha Johnson’s name.

¹³ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Multiple Acts (Std. 1.5(b).)

Respondent's unauthorized purchase of Starbucks e-gift cards on Ms. Katje's account, the unauthorized downloading of Ms. Katje's client files after her termination, the unauthorized transactions on Ms. Johnson's Macy's, Best Buy, and Pay Pal accounts, Respondent's lies to police investigator De La Rosa, as well as Respondent's filing of multiple false documents with the court, evidences multiple acts of wrongdoing and is a significant aggravating circumstance.

Indifference Toward Rectification/Atonement (Std. 1.5(k).)

Respondent demonstrated indifference toward rectification or atonement for the consequences of her misconduct and a lack of insight with respect to her misconduct by trying to minimize her conduct in the CLLC matter. At trial, Respondent admitted that she had Ms. Katje's electronic files all along, but attempted to minimize her conduct by testifying that it was part of her job to download them, and that she did not use client information to solicit clients. While it may have at one time been part of her job to download client files, it certainly was not part of her job to download client files and keep them *after* her termination.

In addition, Respondent tried to collaterally attack her conviction with respect to one of the criminal charges -- filing false court documents -- by claiming she never agreed to plead to this charge. This further demonstrates a lack of insight.

Furthermore, Respondent's denials during trial regarding knowledge of the PayPal and Sarah Songs transactions, which were clearly linked to her, demonstrates a lack of insight and a failure to accept responsibility for her misconduct. (*In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380 [lack of insight causes concern an attorney will repeat misconduct].) "The law does not require false penitence. [Citation.] But it does require that the respondent accept responsibility for [her] acts and come to grips with [her] culpability. [Citation.]" (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511.)

The court gives great weight to Respondent's indifference and lack of insight as an aggravating circumstance.

Dishonesty (Std. 1.5(d).)

Respondent's misconduct was surrounded by dishonesty. As discussed above, Respondent lied to investigator De La Rosa about a number of matters. This is a significant aggravating circumstance.

Lack of Candor (Std. 1.5(l).)

Respondent's lack of candor towards Ms. Katje and Ms. Johnson is a significant aggravating factor. Her denials to Ms. Katje of downloading the client files and having electronic copies of the firm's client files, and her denial to Ms. Johnson regarding her fraudulent activity on Ms. Johnson's accounts demonstrate a lack of candor to the victims of her misconduct.

Mitigation

It is Respondent's burden to prove mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds no mitigating circumstances in this case.

No Prior Record (Std. 1.6(a).)

Standard 1.6(a) provides that "absence of any prior record of discipline over many years of practice coupled with present misconduct, which is not likely to recur" is a mitigating circumstance. Although Respondent has no prior record of discipline, at the time of her misconduct, she had only been practicing law for a little over two years. Furthermore, due to Respondent's lack of insight and indifference toward rectification or atonement for the consequences of her misconduct, the court cannot find that Respondent's conduct is not likely to recur. Thus, the court gives no mitigating weight to Respondent's lack of a prior record of discipline.

Good Character (Std. 1.6(f).)

Standard 1.6(f) provides that “extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct” is a mitigating circumstance. Respondent contends mitigation should be given to the testimony of Ms. Haddad. The court disagrees. Ms. Haddad’s testimony does not constitute a wide range of references. (*In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 840 [respondent not entitled to mitigation for good character based on testimony of two witnesses.])

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but is instead (1) to protect the public, the courts, and the legal profession; (2) to maintain the highest possible professional standards for attorneys; and (3) to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) The court then looks to the decisional law. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

The Supreme Court gives the standards “great weight” and will reject a recommendation consistent with the standards only where the court entertains “grave doubts” as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) As the Review Department noted more than two decades ago in *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 419, even though the standards are not to be applied in a talismanic fashion, they are to be followed unless there is a compelling reason that justifies not

doing so. (Accord, *In re Silverton*, *supra*, 36 Cal.4th at p. 91; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *Gary v. State Bar* (1988) 44 Cal.3d 820, 828; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

The standard applicable in this matter is standard 2.15(c). Standard 2.15(c) states, “Disbarment or actual suspension is the presumed sanction for final conviction of a misdemeanor involving moral turpitude.” Furthermore, 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. In a conviction referral proceeding, “discipline is imposed according to the gravity of the crime and the circumstances of the case. [Citation.] In examining such circumstances, the court may look beyond the specific elements of a crime to the whole course of an attorney’s conduct as it reflects upon the attorney’s fitness to practice law.” (*In the Matter of Katz*, *supra*, 1 Cal. State Bar Ct. Rptr. at p. 510.) All relevant factors must be considered in determining the appropriate discipline. (*Grim v. State Bar* (1991) 53 Cal.3d 21, 35.) It is the court’s responsibility to impose a discipline that will protect the public from potential harm from Respondent. (*In re Kelley* (1990) 52 Cal.3d 487, 496.)

In reviewing the circumstances which gave rise to a criminal offense, the Supreme Court has stated, “we are not restricted to examining the elements of the crime, but rather may look to the whole course of [Respondent’s] conduct which reflects upon [her] fitness to practice law.” (*In re Hurwitz* (1976) 17 Cal.3d 562, 567.) It is the attorney’s misconduct, not solely the conviction, that warrants discipline. No matter how an attorney may fare in the criminal courts, an attorney’s “fitness to practice law is a matter for separate and independent consideration by the State Bar and [the Supreme Court].” (*In re Gross* (1983) 33 Cal.3d 561, 568.) In matters

such as this one, in which the crime inherently involves moral turpitude, “the facts and circumstances are relevant, not on the issue of moral turpitude, but to determine the appropriate discipline to be imposed.” (*In re Dedman* (1976) 17 Cal.3d 229, 231.)

“ “[D]isbarments, and not suspensions, have been the rule rather than the exception in cases of serious crimes involving moral turpitude ” [Citations.]” (*In the Matter of Rech* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 310, 317.) However, “[a]n attorney’s commission of a crime involving moral turpitude is always a matter of serious consequence but does not always result in disbarment. . . . [T]he sanction imposed is determined by the Supreme Court in each case depending on the nature of the crime and the circumstances presented by the record before it.” (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 103.)

In this case, Respondent engaged in conduct that was dishonest and highly inappropriate for an attorney. She took advantage of Ms. Katje and Ms. Johnson for her own personal gain by engaging in identity theft in order to purchase numerous items including, among other things, a wireless keyboard and mouse, Starbucks e-gift cards, headphones, a computer, a camera, and a Macy’s gift card. She also accessed and transferred money from Ms. Johnson’s PayPal account, engaged in the unauthorized downloading of client files from CLLC after her termination, and filed documents with the court bearing a fraudulent signature on the proof of service form. Such acts of wrongdoing are very serious and involve moral turpitude. Her actions with respect to the proof of service forms clearly were committed in the course of her legal practice. In aggravation, Respondent engaged in multiple acts of wrongdoing, demonstrated a lack of insight into her misconduct and indifference toward rectification or atonement for the consequences of her actions, engaged in acts of dishonesty, and exhibited a lack of candor toward her victims. There are no mitigating circumstances.

In determining the appropriate discipline in this matter, the court is guided by *In the Matter of Stamper, supra*, 1 Cal. State Bar Ct. Rptr. 96, *In re Dedman, supra*, 17 Cal.3d 229, and *In the Matter of Brazil* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679. In *Stamper*, the attorney was convicted of two counts each of forgery and grand theft by embezzlement, based on the attorney's theft of funds which belonged to his law partnership. The crimes involved moral turpitude but did not involve the practice of law. Due to the persuasiveness of the attorney's evidence in mitigation, which included the lack of harm, the aberrational nature of the conduct, good character, remorse, restitution, and rehabilitation in the seven years since the misconduct occurred, the Review Department of the State Bar Court determined that the attorney should not be disbarred. Rather, the court recommended five years of stayed suspension, five years of probation, and four years of actual suspension with credit for his time on interim suspension.

In *Dedman*, the attorney was convicted on his nolo contendere plea of one count of grand theft, one count of theft, and one count of falsifying documents to be used in evidence, crimes which involve moral turpitude. Rather than disbarment, the Supreme Court imposed discipline which included three years of actual suspension based on mitigating factors including taking steps to develop procedures to make sure there was no recurrence of the problem, community service, full restitution with voluntary interest, no prior record of discipline in eight years of practice, attorneys and judges felt confident the attorney's misconduct would not recur, the attorney had received psychiatric help and his prognosis appeared to be favorable, the attorney was candid and cooperative at the hearings, and the attorney was contrite and willing to accept discipline.

In *Brazil*, the attorney, while the principal officer of a mortgage banking company, misapplied over one million dollars which had been loaned to the company by an investor. The attorney used the money to reduce the company's debt rather than for specific transactions. The

attorney also forged the notary seal and signature of a notary public on six documents and gave the investor documents which purported to show that the attorney or the company had an interest in certain property when no such interest existed. The attorney pleaded no contest to charges of forgery and grand theft. The review department recommended the attorney's disbarment, as the evidence in mitigation did not outweigh the seriousness of the misconduct.

The State Bar urges the court to recommend Respondent's disbarment in this matter. Respondent acknowledges that discipline is warranted, but seeks discipline less than disbarment. Although the nature of the crimes in all three of the above cases is more egregious than the misconduct in this matter, the misconduct in this matter is quite serious, involves dishonesty and moral turpitude, and in part was committed in the course of the practice of law. In addition, the misconduct in this matter does not involve merely a single aberrant act of dishonesty or a hasty act of dishonesty done in anger. Respondent committed the dishonest conduct over multiple days. She had plenty of time to reflect on her actions. Furthermore, the court notes that in the cases above in which disbarment was not recommended, there were significant mitigating circumstances. In this matter, there are no mitigating circumstances and several significant aggravating circumstances.

Respondent's misconduct violated "the fundamental rule of ethics—that of common honesty—without which the profession is worse than valueless . . ." (*Tatlow v. State Bar* (1936) 5 Cal.2d 520, 524.) Respondent's acts impugn public confidence in the legal profession and undermine the integrity of, and respect for, the legal profession. Therefore, after considering the nature of Respondent's crime and the facts and circumstances surrounding Respondent's conviction, the significant aggravating circumstances in this matter, the lack of any evidence in mitigation, the standards, and the case law, this court is convinced that Respondent is unfit to practice law until she demonstrates her rehabilitation and fitness to practice law by clear and

convincing evidence in a reinstatement proceeding. Accordingly, in order to maintain public confidence in the legal profession and to maintain the high standards and the utmost integrity of the legal profession, this court recommends that Respondent be disbarred.

Recommendations

Discipline - Disbarment

It is recommended that Sanam Alicia Nikkhoo, State Bar Number 297290, be disbarred from the practice of law in California and that her name be stricken from the roll of attorneys.

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) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.¹⁴ Failure to do so may result in disbarment or suspension.

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

¹⁴ 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).)

assessed against a member 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, subdivision (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 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: October 11, 2018



CYNTHIA VALENZUELA
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 Los Angeles, on October 11, 2018, 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 Los Angeles, California, addressed as follows:

ANTHONY P. RADOGNA
LAW OFFICES OF ANTHONY RADOGNA
1 PARK PLZ STE 600
IRVINE, CA 92614 - 5987

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

SCOTT KARPF, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 11, 2018.



Paul Songco
Court Specialist
State Bar Court