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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 18-PM-14569-CV
)	
CRAIG RONALD TRIANCE,)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION AND ORDER
A Member of the State Bar, No. 161079.)	OF INVOLUNTARY INACTIVE
_____)	ENROLLMENT

Introduction¹

In this probation revocation proceeding, respondent Craig Ronald Triance (Respondent) is charged with violating certain probation conditions imposed by the California Supreme Court. The Office of Probation of the State Bar of California (Office of Probation) seeks to (1) revoke his probation; (2) impose upon Respondent the entire period of suspension previously stayed; (3) require that Respondent remain suspended until he pays restitution and, if his actual suspension lasts two years or longer, he remains suspended until he provides proof of his rehabilitation, fitness to practice, and present learning and ability in the general law (std. 1.2(c)(1)); (4) require Respondent to comply with California Rules of Court, rule 9.20; and (5) involuntarily enroll Respondent as an inactive member of the State Bar pursuant to section 6007, subdivision (d).

The court finds, by a preponderance of the evidence, that Respondent has violated certain probation conditions and hereby grants the Office of Probation's motion. Therefore, the court

¹ Unless otherwise indicated, all statutory references are to the Business and Professions Code and all references to rules refer to the State Bar Rules of Professional Conduct. All references to standard(s) or std. are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

orders that Respondent be involuntarily enrolled as an inactive member of the State Bar. The court also recommends, among other things, that Respondent's probation be revoked and that the previously stayed, one-year suspension be lifted. The court further recommends that Respondent be suspended for one year, stayed; that he be placed on probation for one year; that he be actually suspended for one year, and that he remain suspended until he pays and provides satisfactory proof of restitution; and provides to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School and passage of the test given at the end of that session.

Significant Procedural History

On July 11, 2018, the Office of Probation filed and properly served a motion to revoke probation on Respondent by certified mail, return receipt requested, and by regular mail. Respondent did not file a response to the motion.

The court took this matter under submission for decision on August 15, 2018.

Request for Judicial Notice

On July 30, 2018, pursuant to Evidence Code section 452, the Office of Probation filed a motion requesting that this court take judicial notice of Respondent's certified record of prior discipline. Respondent did not file a response to the Office of Probation's motion. Pursuant to Evidence Code section 452, subdivision (d), the request for judicial notice is **GRANTED**. The court takes judicial notice of Respondent's prior discipline record in case Nos. 09-O-18685, 09-O-19114, 10-O-03047, 10-O-09910, and 10-O-10951 (09-O-18685 et al.).

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on December 14, 1992, and has been a member of the State Bar at all times since.

Probation Violations

On September 5, 2017, in Supreme Court case No. S242816 (State Bar Court case No. 16-O-14637), the California Supreme Court ordered, among other things, that:

1. Respondent be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for one year subject to certain conditions as recommended by the Hearing Department of the State Bar Court in its May 2, 2017 Order Approving Stipulation.

2. Respondent comply, among other things, with the following probation conditions:

A. Submit a written quarterly report to the Office of Probation on or before January 10, April 10, July 10 and October 10 of each year, or part thereof, during which the probation is in effect, stating under penalty of perjury that he has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period (quarterly report); and

B. Pay restitution to Eugenio and Rosa Rangel in the amount of \$4,794.54 plus 10 percent interest per year from December 1, 2014. If the Client Security Fund (CSF) has reimbursed the payee for all or any portion of the principal amount, Respondent must also pay restitution to CSF in the amount paid, plus applicable interest costs. Respondent must pay the restitution and provide satisfactory proof of payment to the Office of Probation no later than six months after the effective date of the Supreme Court order or April 5, 2018.

The Supreme Court order became effective on October 5, 2017, 30 days after it was filed. (Cal. Rules of Court, rule 9.18(a).) It was properly served on Respondent.²

² Although no proof was offered that the Clerk of the Supreme Court served the Supreme Court's order on Respondent, rule 8.532(a) of the California Rules of Court required the Supreme Court clerk to promptly transmit a copy of the order to the parties upon filing. Moreover, it is presumed pursuant to Evidence Code section 664 that official duties have been regularly performed. (*In re Linda D.* (1970) 3 Cal.App.3d 567, 571.) Therefore, in the absence of evidence to the contrary, this court finds that the Clerk of the Supreme Court performed his or

On September 21, 2017, the Office of Probation uploaded to Respondent's attorney profile on the State Bar's website a reminder letter outlining certain terms and conditions of his probation and setting forth compliance deadlines. Among other things, the letter specifically addressed Respondent's quarterly reporting requirement, including that his reports were due quarterly beginning January 10, 2018, and his requirement to provide proof that he paid restitution by April 5, 2018. Included with the letter were, among other things, the Supreme Court's September 5, 2017 order imposing discipline; that portion of the stipulation setting forth the discipline, including the terms and conditions of probation; a quarterly report form and a quarterly report instruction sheet; and proof of payment information. The letter was not returned by the internet server as undeliverable, or for any other reason.

The Office of Probation also sent an e-mail to Respondent on September 21, 2017, informing him that the courtesy reminder letter was uploaded to his attorney profile on the State Bar's website. Delivery of this email was completed.

On September 28, 2017, Respondent had a telephonic meeting with his probation deputy as required by the terms of Respondent's probation. During the meeting, the probation deputy verified that Respondent received the September 21, 2017 reminder letter and supporting documents, the reporting requirements and other probation conditions.

Respondent failed to provide proof to the Office of Probation that he paid restitution by April 5, 2018, and failed to submit his April 10, 2018 quarterly report.

On May 30, 2018, the Office of Probation sent Respondent a letter to his State Bar membership records address setting forth his non-compliance with the conditions requiring him to submit a quarterly report by April 10, 2018, and provide the Office of Probation proof that he paid restitution by April 5, 2018. The letter was not returned to the Office of Probation by the

her duty and transmitted a copy of the Supreme Court's order to Respondent immediately after its filing.

United States Postal Service as undeliverable, or for any other reason. On the same date, a copy of the letter and attachments were emailed to Respondent. Delivery of the email was completed.

Conclusions

Section 6093, subdivision (b), provides that violation of a probation condition constitutes cause for revocation of any probation then pending and may constitute cause for discipline.

Section 6093, subdivision (c), provides that the standard of proof is the preponderance of the evidence. Bad faith is not a requirement for a finding of culpability in a probation violation matter. Instead, a general purpose of willingness to commit an act or permit an omission is sufficient. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

Respondent did not comply with the probation conditions as ordered by the Supreme Court in case No. S242816. He failed to provide the Office of Probation with proof that he paid restitution by April 5, 2018, and failed to submit his quarterly report due April 10, 2018.

As a result, the revocation of Respondent's probation in California Supreme Court case No. S242816 is warranted.

Aggravation

Prior Record of Discipline (Std. 1.5(a).)

Respondent has two prior records of discipline. On November 2, 2011, the Supreme Court filed an Order in case No. S195295 (State Bar Court case No. 09-O-19114 et al.) suspending Respondent from practicing law in California for two years; staying execution of that suspension; and placing Respondent on probation for two years subject to certain conditions, including that Respondent be suspended from practicing law for the first year of his probation and until he paid restitution. In his first prior discipline, Respondent stipulated to misconduct in five client matters. Respondent had an agreement with an individual who referred clients to Respondent who needed assistance with securing loan modifications of their home mortgages.

Respondent stipulated to 19 counts of misconduct, which included: (1) sharing legal fees with a non-lawyer (rule 1-320(A) [three counts]); (2) failing to perform legal services with competence (rule 3-110(A) [three counts]); (3) failing to render appropriate accounting of client funds (rule 4-100(B)(3) [five counts]); (4) failing to return unearned fees (rule 3-700(D)(2) [five counts]); and (5) failing to keep clients reasonably informed of significant developments (§ 6068, subd. (m) [three counts]). Client harm and multiple acts of wrongdoing aggravated Respondent's misconduct. The sole mitigating circumstance was Respondent's cooperation by entering into a pretrial stipulation.

In Respondent's second prior discipline, on September 5, 2017, the Supreme Court filed an Order in case No. S242816 (State Bar Court case No. 16-O-14637) suspending Respondent from practicing law in California for one year; staying execution of that suspension; and placing Respondent on probation for one year subject to certain conditions. Respondent's conduct involved a single client where Respondent abandoned a client after he was able to delay a pending foreclosure proceeding involving his client's property. Respondent stipulated to five counts of misconduct: (1) failing to perform legal services with competence; (2) improperly withdrawing from employment (rule 3-700(A)(2)); (3) failing to communicate; (4) failing to render an accounting; and (5) failing to refund unearned fees. Respondent's misconduct was aggravated by a prior discipline record and significant client harm, but tempered by Respondent's cooperation.

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

An attorney's continued failure to comply with his probation conditions after being notified of that non-compliance is properly considered a substantial aggravating circumstance. It demonstrates indifference toward rectification of or atonement for the consequences of one's misconduct. (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 530.)

Although the Office of Probation's May 30, 2018 letter notified Respondent about his non-compliance with the conditions that he provide proof of payment of restitution by April 5, 2018, and submit his quarterly report by April 10, 2018, Respondent still had not done so.

Lack of Candor/Cooperation to State Bar (Std. 1.5)(I.)

Respondent's failure to participate in this proceeding is also an aggravating factor.

Mitigation

Since Respondent did not participate in this proceeding, no evidence in mitigation was presented and none is apparent from the record. (Std. 1.6.)

Discussion

Section 6093 authorizes the revocation of probation for a violation of a probation condition, but any actual suspension cannot exceed the period of stayed suspension imposed in the underlying proceeding. (Rules Proc. of State Bar, rule 5.312.) The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violation and Respondent's recognition of his misconduct and his efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.)

As of the filing of this motion seeking revocation of his probation, Respondent has failed to provide the Office of Probation with proof that he paid restitution, and he has not submitted his April 10, 2018 quarterly report. Respondent was provided with notice of the terms and conditions of his disciplinary probation, yet he failed to comply with them, despite repeated reminders from the Office of Probation. "At a minimum, quarterly probation reporting is an important step towards an attorney probationer's rehabilitation because it requires the attorney, four times a year, to review and reflect upon his professional conduct In addition, it requires the attorney to review his conduct to ensure that he complies with all of the conditions of his disciplinary probation." (*In the Matter of Weiner* (Review Dept. 1997) 3 Cal. State Bar Ct.

Rptr. 759, 763.) Moreover, restitution is “a necessary condition of probation designed to effectuate petitioner's rehabilitation and to protect the public from similar future misconduct.” (*Sorensen v. State Bar* (1991) 52 Cal.3d 1036, 1044.) Respondent’s failure to comply with his probation conditions demonstrates Respondent’s inability to understand or appreciate his professional obligations.

Absent compelling mitigating circumstances, an attorney who willfully violates a significant probation condition can anticipate that the expected discipline will be an actual suspension. (*In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 574.) Furthermore, “the greatest amount of discipline would be merited for violations which show a breach of a condition of probation significantly related to the misconduct for which probation was given. This would be especially significant in circumstances raising a serious concern about the need for public protection or showing the probationer’s failure to undertake rehabilitative steps.” (*In the Matter of Potack, supra*, 1 Cal. State Bar Ct. Rptr. at p. 540.) In the underlying disciplinary matter, Respondent’s misconduct involved client abandonment. The probation conditions requiring him to provide proof that he paid restitution and to submit quarterly reports in which he is required to report, in writing and under penalty of perjury, his compliance with the State Bar Act, the Rules of Professional Conduct, and all the conditions of his probation are significant probation conditions that are related to the misconduct for which probation was imposed. His failure to submit his quarterly report raises concerns about public protection and whether Respondent is capable of seeing matters through and fulfilling his ethical responsibilities. Moreover, his failure to demonstrate that he paid restitution shows his lack of rehabilitation efforts. Thus, a significant period of actual suspension is warranted in this matter.

The Office of Probation requested, among other things, that Respondent’s probation be revoked and that one year of actual suspension be recommended as the discipline in this matter

and that Respondent remain suspended until Respondent pays restitution, and should the actual suspension last two years or longer, Respondent remain suspended until he provides proof of his rehabilitation, fitness to practice, and present learning and ability in the general law. (Std. 1.2(c)(1).) The court concurs with the Office of Probation's recommended discipline, but finds it appropriate to recommend that Respondent be suspended for one year, stayed, and that he be placed on probation subject to various conditions outlined below. The court also finds it appropriate pursuant to rule 5.135(A) of the State Bar Rules of Procedure, for Respondent to remain suspended until he provides to the Office of Probation proof of attendance at a session of the State Bar Ethics School and passage of the test given at the end of that session.

RECOMMENDATIONS

Discipline – Probation Revoked

The court recommends that the probation of Craig Ronald Triance, State Bar Number 161079, imposed in Supreme Court matter No. S242816 (State Bar Court case No. 16-O-14637) be revoked and that the stay of the previously stayed suspension be lifted. The court further recommends that Respondent be suspended from the practice of law for one year, execution of that period of suspension be stayed, and that he be placed on probation for one year subject to the following conditions.

1. Respondent will be suspended from the practice of law for a minimum of one year, and he will remain suspended until the following conditions are satisfied:
 - a) Respondent must make restitution to Eugenio and Rosa Rangel in the amount of \$4,794.54 plus 10 percent interest per year from December 1, 2014, or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code

section 6140.5) and must furnish satisfactory proof of restitution to the Office of Probation.

- b) He provides to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School and passage of the test given at the end of that session; and
- c) If he remains suspended for two years or more as a result of not satisfying the proceeding conditions, 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 his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).).

2. Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

3. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.

4. Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, he or she must provide the mailing address, email address, and telephone number to be used for State Bar

purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.

5. Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

6. During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.

7. Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification

sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

8. Quarterly Reports. Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.

a. Contents of Reports. Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

b. Submission of Reports. All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other

tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

c. Proof of Compliance. Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

Multistate Professional Responsibility Examination

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because he was previously ordered to do so in Supreme Court case No. S242816 and remains under an obligation to comply with this requirement.

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.³ Failure to do so may result in disbarment or suspension.

³ 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).)

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 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

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.

Respondent is ordered to be involuntarily enrolled inactive under 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: September 7, 2018



CYNTHIA VALENZUELA
Judge of the State Bar Court

⁴ 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 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 September 7, 2018, 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:

CRAIG R. TRIANCE
SGV LAW CENTER
PO BOX 683
GLENORA, CA 91740 - 0683

- 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 September 7, 2018.



Paul Barona
Court Specialist
State Bar Court