PUBLIC MATTER—NOT DESIGNATED FOR PUBLICATION

Filed July 15, 2019

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	No. 09-C-10146
	)	
DONALD MARTIN WANLAND, JR.,	)	OPINION AND ORDER
	)	
State Bar No. 122462.	)	
	)	

In this, Donald Martin Wanland, Jr.'s third discipline case, he was convicted in 2013 of 25 felonies, including willful attempted tax evasion and concealment of property subject to a levy. He was also convicted of three misdemeanors for willful failure to file a tax return. His misconduct spanned 2001 to 2008, and he served time in prison for these crimes.

A hearing judge found that the facts and circumstances surrounding Wanland's convictions involved moral turpitude and recommended disbarment. Wanland appeals and argues that moral turpitude was not present. He also challenges the judge's credibility findings, raises due process arguments, and contends that he should not be disciplined. The Office of Chief Trial Counsel of the State Bar (OCTC) supports the hearing judge's decision.

After independently reviewing the record (Cal. Rules of Court, rule 9.12), we reject Wanland's challenges and find that the facts and circumstances surrounding his convictions involve moral turpitude. Given this finding, as well as the serious aggravation and lack of mitigation, we affirm the hearing judge's disbarment recommendation.

I. WANLAND'S 2013 CRIMINAL CONVICTIONS

In January 2009, a grand jury indicted Wanland on a single felony count of tax evasion (26 U.S.C. § 7201). Three years later, in January 2012, a grand jury returned a superseding

indictment charging Wanland with one felony count of willful attempted tax evasion (26 U.S.C. § 7201),[1] 28 felony counts of concealment of property subject to levy (26 U.S.C. § 7206(4)),[2] and three misdemeanor counts of willful failure to file tax returns for the calendar years 2005, 2006, and 2007 (26 U.S.C. § 7203).[3] Ultimately, he was convicted in 2013 of one count of willful attempted tax evasion, 24 counts of concealment of property subject to levy, and three counts of failure to file tax returns.

Wanland was sentenced to 46 months in federal prison and 36 months of probation on March 25, 2014. He appealed the convictions. On July 27, 2016, the United States Court of Appeals for the Ninth Circuit affirmed his convictions in *United States v. Wanland* (9th Cir. 2016) 830 F.3d 947, and denied his petition for rehearing on October 14, 2016. The United States Supreme Court denied Wanland's petition for writ of certiorari on March 6, 2017.

II. STATE BAR COURT PROCEDURAL BACKGROUND

After OCTC transmitted Wanland's felony conviction records to us, we placed him on interim suspension from the practice of law, effective February 19, 2014. (Bus. & Prof. Code,

[1] Title 26 United States Code section 7201 provides: "[a]ny person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall . . . be guilty of a felony and, upon conviction thereof, shall be fined . . . or imprisoned . . . or both . . . ."

[2] Title 26 United State Code section 7206(4) provides: "[a]ny person who [r]emoves, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities . . . in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title . . . shall be guilty of a felony and, upon conviction thereof, shall be fined…or imprisoned . . . or both . . . ."

[3] Title 26 United States Code section 7203 provides: "[a]ny person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, . . . shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined . . . or imprisoned . . . or both . . . ."

§§ 6101, 6102;[4] Cal. Rules of Court, rule 9.10; Rules Proc. of State Bar, rules 5.341, 5.342.)[5] On March 17, 2014, we classified a violation of 26 U.S.C. section 7206(4) (removing or concealing to avoid tax collection or assessment per levy) as a crime that inherently involves moral turpitude.

However, on November 9, 2017, we reclassified the violation as one that may or may not involve moral turpitude after considering further briefing from the parties. We concluded that federal law did not provide controlling authority as to whether a conviction under 26 U.S.C. section 7206(4) establishes moral turpitude as a matter of law upon which we can rely for disciplinary purposes. (§ 6102, subd. (c); *In re Higbie* (1972) 6 Cal.3d 562, 570 [where federal offense is at issue, State Bar Court looks to federal courts to determine nature of elements of conviction].) OCTC conceded that it had found no federal authority addressing whether 26 U.S.C. section 7206(4) involves moral turpitude. Thus, on November 9, 2017, we referred the matter to the Hearing Department for a trial on the issue of whether the facts and circumstances surrounding the convictions involved moral turpitude. (See § 6102, subd. (e); rule 5.344)

III. FACTS AND CIRCUMSTANCES SURROUNDING WANLAND'S CONVICTIONS INVOLVE MORAL TURPITUDE

A. Legal Principles

The issue before us is whether the facts and circumstances surrounding Wanland's 28 tax convictions, which were not committed in the practice of law or against a client, reveal moral turpitude, as the hearing judge found. We are guided by the California Supreme Court's most recent definition of moral turpitude regarding attorney discipline cases as "a deficiency in any

[4] All further references to sections are to the Business and Professions Code unless otherwise noted.

[5] All further references to rules are to the Rules of Procedure of the State Bar of California unless otherwise noted.

character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of a duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney's conduct would be likely to undermine public confidence in and respect for the legal profession." (*In re Lesansky* (2001) 25 Cal.4th 11, 16.) Though Wanland's convictions are conclusive proof he committed all the acts constituting the offense (§ 6101, subds. (a) & (e)), we must examine the facts and circumstances surrounding the crime, and not merely rely on a conviction to determine the presence of moral turpitude and the appropriate discipline. (See *In re Gross* (1983) 33 Cal.3d 561, 566 [misconduct, not conviction, warrants discipline]; see also (*In the Matter of Miller* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110, 115 ["wide ambit of facts surrounding the commission of a crime is appropriate to consider in a conviction referral proceeding"].)

B. Factual Background and Moral Turpitude Analysis

Wanland was admitted to the State Bar of California in 1986, and was a successful civil litigation attorney in Sacramento. But starting in the mid-nineties, he developed a long history of problems with the Internal Revenue Service (IRS). Wanland became embroiled in IRS disputes involving collection efforts of his unpaid taxes.[6] He had larger IRS problems that led to his convictions for hiding assets in a partnership bank account, providing false information on IRS form statements, and being dishonest with the IRS during tax collection efforts.

In 1997, Wanland formed a partnership with attorney Richard Bernstein—the Law Offices of Wanland & Bernstein—and with 705 University Partners. On Wanland's request, from 2000 to 2005, Bernstein wrote checks for Wanland's partnership-draws to the 705 University Partners bank account jointly held by the partners (705 Account). Though the

[6] At one point, the IRS reversed around $200,000 of Wanland's tax liability due to an assessment error.

account was established as a business checking account, Wanland used it primarily for his personal banking; Bernstein did not use the account. After Bernstein left the firm, Wanland wrote partnership-draw checks to himself, payable to the 705 Account, until new partner Donald Spaulding took over the check-writing duties in September 2005. The law partnership's tax returns show that Wanland received over $1 million in ordinary income from 2005 through 2007.[7] During this period, however, he made only four tax payments totaling $40,000 to the IRS, despite owing a total of over $900,000 in taxes.

An IRS officer sent Wanland IRS Form 433-A Collection Information Statement for Self-Employed Individuals (IRS Statement). This form required Wanland to disclose his income and liabilities to enable the IRS to assess his ability to pay outstanding taxes. On November 11, 2003, Wanland submitted an IRS Statement that listed only one checking account with a balance of $9 and cash on hand of $1,200.[8] About a year and a half later, on April 6, 2005, Wanland submitted a second IRS Statement listing the same checking account as before, but this time showing the account's balance as "minimal/unknown" and cash on hand of $600. From 2000 to 2006, Wanland deposited at least $1.91 million of his share of proceeds from his law practice into the 705 Account. This account was never disclosed on the IRS Statements that Wanland submitted.

Wanland submitted the IRS Statements through his accountant, Steven Campbell. He did not tell Campbell that he was receiving his partnership draws directly to the 705 Account or that he was using it as a personal checking account. Further, Wanland did not disclose his American Express credit card to Campbell or the IRS, even though he spent about $191,000 from the 705 Account to pay down the balance on the card from 2003 through 2005. While misrepresenting his financial circumstances to the IRS, Wanland deposited roughly $45,000 from his law practice into

[7] Wanland's ordinary income each year from 2005-2007 was in excess of $250,000.

[8] This was a personal checking account that Wanland jointly held with his wife.

the 705 Account in October and November 2003, and about $34,000 in March and April 2005. Wanland's handling of the 705 Account and the IRS Statements reveals deficiencies in his truthfulness and candor, and demonstrates moral turpitude.

On April 14, 2005, the IRS issued continuous levies on both of Wanland's partnerships—the Law Offices of Wanland & Bernstein and 705 University Partners. Wanland still collected and maintained personal income in the 705 Account while failing to pay the $900,000 in outstanding taxes, penalties, and interest that he owed. He misled his law partner, Spaulding, by requesting that he issue Wanland partnership-draw checks payable to the 705 Account without revealing that the IRS had placed levies on his income.[9] This deceptive conduct also demonstrates moral turpitude.

Finally, Wanland spent money lavishly on himself that was owed to the IRS, never intending to honor his tax obligations. In early 2004, Bernstein suggested that Wanland sell his 6,500 square foot home or the office condo to satisfy his tax liabilities, but Wanland did not wish to disrupt his lifestyle. Undeterred by IRS collection efforts and levies, he continued to collect substantial income through his partnership-draws while owing unpaid taxes, penalties, and interest. (See *In re Rohan* (1978) 21 Cal.3d 195, 203 [conscious decision to not file income tax returns "evinces an attitude on the part of the attorney of placing himself above the law"].) Wanland contends that there is "nothing illegal or improper about living a so-called 'lavish' lifestyle just because one has unresolved tax liabilities." His contentions together with his misconduct prove an intent and motive to flagrantly disregard the law, revealing moral turpitude.

[9] At Wanland's criminal trial, Bernstein testified that when he received notice of the IRS levies, he told Wanland he "would not write any more checks to him." In addition, Spaulding testified that had he known about the IRS levies, he would not have written the partnership-draw checks that Wanland requested.

C. Wanland's Argument Against Moral Turpitude Fails

Wanland argues that his conduct did not amount to moral turpitude, and he did not hide or conceal any assets or information from the IRS. Specifically, he urges that the IRS levies were legally invalid and that his partnership-draws were not akin to "salary" or "wages." We reject his arguments. The inquiry into tax liabilities does not end with his choice of label of his income. Even though Wanland did not identify his law practice compensation as "salary" or "wages," such compensation constituted payments to him of consistent amounts on a repeated basis. Consequently, it fell directly within the underlying purpose of the levy—"to provide a means of levying upon remuneration payable to a taxpayer on a recurring basis for personal services performed for the payor." He also concealed the 705 Account to hide personal earnings and lied on IRS Statements with the intent to disregard tax laws. His defiance of the IRS levies was a willful act to evade payment of taxes owed. Wanland's persistent efforts to shirk his tax responsibilities constitute a lack of respect for the integrity of the legal system and societal norms, again demonstrating moral turpitude. (*In re Lesansky*, *supra*, 25 Cal.4th at p. 16.)

Wanland also argues that he relied on his tax attorney's advice when he dishonored the levies. Wanland's testimony was, however, impeached by two prior emails. In 2009, Wanland's attorney, Steven Mopsick, sent an email to a colleague discussing his initial conversation with Wanland about the IRS levies: "He didn't provide documents or hire me—I never advised him to not honor the levy . . . I was never retained by [Wanland] at the time and I never put anything in writing." In light of this evidence, we adopt the hearing judge's finding that Wanland's testimony was not credible, and further find that his argument constitutes an improper collateral attack on his criminal conviction. (*In the Matter of Respondent O* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 581, 589 [court may not reach conclusions inconsistent with conclusive effect of attorney's convictions].)

IV. NO MERIT TO WANLAND'S PROCEDURAL CHALLENGES[10]

Wanland raises three primary procedural challenges.[11] He contends that: (1) he was not given adequate notice of the charges against him; (2) OCTC's pretrial statement violated his due process rights; and (3) he was denied an opportunity to rebut OCTC's closing posttrial brief, which contained significant new matters. He also challenges the hearing judge's credibility finding regarding his trial testimony. We reject his arguments as having no merit.

A. Wanland Received Sufficient Notice

Wanland argues that he was denied due process because he received insufficient notice of the charges against him. He asserts that rule 5.41 obligated OCTC to file an NDC in his criminal conviction case. Rule 5.41 provides that a "notice of disciplinary charges is the initial pleading in a disciplinary proceeding, unless specified otherwise in the rules." (Rule 5.41(A).) In criminal conviction referral matters, however, a separate set of rules govern the proceedings. The operative rule for initiating a conviction proceeding is rule 5.341, which requires OCTC to file a certified copy of the record of conviction, and not an NDC.

Pursuant to rule 5.341, OCTC properly filed an initial Transmittal of Records of Conviction of Attorney (Transmittal) notifying Wanland of his criminal convictions. In the Transmittal, OCTC provided a certified copy of the jury verdict form, the superseding indictment, and an order from the United States District Court for the Eastern District of California denying Wanland's motion to dismiss the indictment. Thereafter, OCTC filed a Supplemental Transmittal providing evidence of finality of Wanland's conviction. The

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[10] The standard of review we apply to procedural rulings is abuse of discretion. (*In the Matter of Respondent L* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 454, 461.) The generally accepted test for applying the abuse of discretion standard is whether, given all the circumstances before it, the trial court exceeded the "bounds of reason." (*In the Matter of Geyer* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 74, 78.)

[11] Having independently reviewed all factual and legal arguments set forth by Wanland, those not specifically addressed have been considered and are rejected as having no merit.

Supplemental Transmittal included a copy of his criminal case docket, the mandate from the United States Court of Appeals for the Ninth Circuit affirming his convictions, and the United States Supreme Court's order denying his petition for writ of certiorari. On November 9, 2017, this court properly referred Wanland's case to the Hearing Department for a hearing and decision recommending the discipline to be imposed regarding whether the facts and circumstances surrounding Wanland's convictions involved moral turpitude or other misconduct warranting discipline. Wanland does not dispute he received these notices. Considering the information provided to Wanland, we reject his argument that he lacked sufficient notice of the charges.[12]

B. OCTC'S Pretrial Statement Did Not Violate Wanland's Due Process Rights

Wanland also asserts that he was denied due process because OCTC's "woefully deficient" pretrial statement prejudiced him by failing to include disputed facts and law it would be relying upon at trial, in violation of rule 5.101. OCTC filed a pretrial statement, as required by rule 5.101(A), on February 23, 2018. Rule 5.101(C) mandates that such statements contain, inter alia, the following: (1) undisputed facts—a plain and concise statement of all material facts not reasonably disputable; (2) disputed issues—a plain and concise statement of all disputed factual issues, evidentiary issues, and claims of work product or privilege; and (3) points of law—a concise statement of each disputed point of law pertaining to the issues, with references to statutes, rules, and decisions relied upon.

We find that OCTC's pretrial statement was not deficient, and Wanland suffered no prejudice. In its pretrial statement, OCTC provided five statements of undisputed facts identifying Wanland's criminal charges, convictions, and unsuccessful appeals to the Ninth

[12] Wanland also argues that rule 5.347 applies to his insufficient notice argument. The rule states that "[r]ules that by their terms apply only to other specific proceedings do not apply in conviction proceedings[.]" We reject his argument as rule 5.347 is inapplicable because rule 5.341 governs the specialized requirement that criminal proceedings be initiated by a certified copy of the record of conviction.

Circuit Court of Appeals and United States Supreme Court. For the disputed issues, the statement asserted that "[a]ll other issues remain in dispute." In the points of law section, OCTC's statement alleged that Wanland's convictions involved moral turpitude and provided applicable case law and legal standards. On February 23, 2018, OCTC filed its Trial Exhibit Record, which contained voluminous files of various pleadings submitted into evidence in Wanland's underlying criminal case. Further, during opening statements at trial, both parties addressed whether Wanland's convictions involved moral turpitude. As such, Wanland had ample information to sufficiently understand the key issues in this proceeding.

C. Simultaneous Posttrial Closing Briefs Did Not Prejudice Wanland

Wanland argues that the hearing judge erred by ordering the parties to submit simultaneous closing briefs, thus preventing him from rebutting OCTC's closing arguments. OCTC argues that Wanland has not demonstrated any prejudice resulting from the judge's order.

Hearing judges are accorded wide latitude to control matters before them.[13] (*In the Matter of Johnson* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233, 241.) The standard of review we generally apply to procedural rulings is abuse of discretion. (*In the Matter of Aulakh* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690, 695; see *H. D. Arnaiz, Ltd. v. County of San Joaquin* (2002) 96 Cal.App.4th 1357, 1368 ["appropriate test of abuse of discretion is whether or not the trial court exceeded the bounds of reason, all of the circumstances before it being considered"].) To prevail on a claim of error, abuse of discretion and actual prejudice resulting from the ruling must be established. (*In the Matter of Johnson*, *supra*, 3 Cal. State Bar Ct. Rptr. at p. 241.) While Wanland argues the judge improperly denied him the opportunity to respond to OCTC's closing arguments, he failed to identify the specific additional facts or arguments he would have offered or any actual prejudice he suffered. (*In the Matter of Hertz* (Review Dept.

[13] For good cause shown, a hearing judge may order parties to submit closing briefs. (See rule 5.111(A).)

1991) 1 Cal. State Bar Ct. Rptr. 456, 469 [attorney must show specific prejudicial effect].) Accordingly, we find that the hearing judge did not abuse her discretion by ordering simultaneous closing briefs.

V. NO MERIT TO CHALLENGE OF HEARING JUDGE'S CREDIBILITY FINDINGS

Wanland challenges the hearing judge's credibility findings regarding his trial testimony. The judge found that his trial testimony lacked credibility, concluding that significant parts of it were "artful, hard to believe, and inherently improbable." Upon our independent review of the record, we find no reason to discredit this description. Further, a hearing judge's factual and credibility findings are accorded great weight because the judge presided over the trial and heard the testimony. (Rule 5.155(A) [great weight given to hearing judge's factual findings]; see *McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032 [hearing judge best suited to resolve credibility questions "because [she] alone is able to observe the witnesses' demeanor and evaluate their veracity firsthand"].) We therefore adopt the judge's credibility determinations.

VI. SUBSTANTIAL AGGRAVATION AND NO MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct [14] requires OCTC to establish aggravating circumstances by clear and convincing evidence.[15] Wanland has the same burden to prove mitigation.

A. Aggravation

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

Wanland has two prior records of discipline.

First, on March 6, 2002, the Supreme Court imposed a 30-day stayed suspension and five

[14] All further references to standards are to this source.

[15] Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

years' probation.[16] In that proceeding, Wanland stipulated to violating bankruptcy court orders and failing to report sanctions to the State Bar. In mitigation, he had no prior record of discipline and, in aggravation, he harmed the administration of justice.

Second, on March 16, 2011, Wanland was placed on 90 days' stayed suspension and one year of probation for violating the conditions of the five-year probation in his first disciplinary proceeding.[17] Wanland's misconduct involved failing to submit timely probation reports and to fulfill the State Bar's Ethics School probation condition. It was aggravated by a prior record of discipline, multiple acts, and uncharged misconduct. He received mitigation for OCTC's delay in prosecuting the charges and his belated completion of probation terms.

Overall, the hearing judge found significant aggravation for Wanland's two prior records of discipline. Wanland argues that the weight assigned for his prior record of discipline should be "greatly diminished" because of the timing of his prior discipline and his present misconduct. We agree with Wanland, and assign moderate aggravating weight. Though a prior discipline is aggravating "[w]henever discipline is imposed" (*Lewis v. State Bar* (1973) 9 Cal.3d 704, 715), diminished weight is appropriate here because Wanland committed much of his present misconduct before he was disciplined in his second case in 2011, and received only stayed suspensions in both prior cases.

2. Pattern of Misconduct (Std. 1.5(c))

We assign serious aggravation to Wanland's pattern of repeatedly committing serious criminal conduct over approximately seven years. (Std. 1.5(c); *Young v. State Bar* (1990) 50 Cal.3d 1204, 1217 [finding that only serious instances of repeated misconduct over prolonged period of time evidence pattern of misconduct].) A common thread beginning in 2000 and continuing through 2008 demonstrates Wanland's willful attempts to evade taxes and conceal

[16] Supreme Court No. S103068 (State Bar Court No. 00-O-11320).

[17] Supreme Court No. S188565 (State Bar Court No. 08-O-13238).

personal income. (See *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555 [pattern must involve serious misconduct spanning extended time period].) His crimes during that time include 25 felonies and three misdemeanors, which satisfies the severity requirement to constitute a pattern. (See *In re Billings* (1990) 50 Cal.3d 358, 366 [disbarment where attorney with no prior discipline committed "pattern of abandonment of clients" that constituted moral turpitude over approximately four years].)

3. Indifference (Std. 1.5(k))

Wanland has demonstrated indifference toward rectification of, or atonement for, the consequences of his misconduct. (Std. 1.5(k).) As the hearing judge noted, Wanland's attempt to collaterally attack his September 2013 convictions in this disciplinary proceeding demonstrates he has yet to accept and acknowledge his wrongdoing. Although the law does not require false penitence, it does require attorneys to accept responsibility for their acts. (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511.) Wanland has not done so. We assign substantial weight to this aggravating circumstance.

4. Failure to Make Restitution (Std. 1.5(m))

The hearing judge found that Wanland's failure to pay restitution on outstanding tax obligations warrants significant weight in aggravation. Wanland argues that his tax debts were discharged as a result of his bankruptcy, there is no pending order to pay restitution, and his financial ability to pay was established. We decline to assign aggravation as we have already relied on Wanland's failure to pay to establish that the facts and circumstances surrounding his criminal convictions involve moral turpitude. (See *In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 132–133 [inappropriate to use same conduct constituting culpability as finding in aggravation].)

B. Mitigation

1. Good Faith (Std. 1.6(b))

Wanland seeks mitigation for good faith. An attorney may be entitled to credit if it can be established such good faith belief was "honestly held and reasonable." (*In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 653.) The hearing judge found Wanland's assertions that he relied in good faith on Mopsick's legal advice when he dishonored the levies was not credible. To begin, Mopsick denied offering such advice. Further, even if Wanland had an honest belief that he did not have to honor the levies, it was objectively unreasonable for him to fail to disclose to Mopsick that he was maintaining his partnership-draws in the 705 Account. We therefore assign no mitigation credit for good faith, noting also the hearing judge's general finding that Wanland's testimony lacked credibility. (*Sternlieb v. State Bar* (1990) 52 Cal.3d 317, 331 [attorney's honest belief not mitigating circumstance because belief was unreasonable].)

2. Extraordinary Good Character (Std. 1.6(f))

Wanland is entitled to mitigation if he establishes "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." (Std. 1.6(f).) The hearing judge assigned limited weight in mitigation for the testimony of Wanland's one character witness. We assign no weight because the testimony of a single witness, a fellow church parishioner here, does not satisfy the standard. (See *In the Matter of Kueker* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583, 594–595 [no mitigation for testimony of three character witnesses because it did not reflect "wide range"].)

3. Remorse and Recognition of Wrongdoing (Std. 1.6(g))

Wanland contends that he is entitled to mitigation for remorse shown at his criminal trial and during these proceedings. We disagree. The record is replete with examples of his failure to

acknowledge any wrongdoing or offer statements of remorse. We find insufficient evidence to warrant mitigation credit.

VII. DISBARMENT IS APPROPRIATE DISCIPLINE

Our role is not to punish Wanland for his crimes—the federal court has done so by sentencing him in the criminal proceeding. Instead, our purpose is to recommend appropriate professional discipline. (*In re Brown* (1995) 12 Cal.4th 205, 217 ["the aim of attorney discipline is not punishment or retribution; rather, attorney discipline is imposed to protect the public, to promote confidence in the legal system, and to maintain high professional standards"]; std. 1.1.) We follow the standards whenever possible and balance all relevant factors, including mitigating and aggravating circumstances, on a case-by-case basis, to ensure that the discipline imposed is consistent with the purposes of discipline. (*In re Young* (1989) 49 Cal.3d 257, 266–267 & fn. 11.) We also look to comparable case law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310–1311.)

Standard 2.15 applies. Prior to May 17, 2019,[18] this standard provided that disbarment is the presumed sanction for a felony conviction in which the surrounding facts and circumstances involve moral turpitude, unless the most compelling mitigating circumstances clearly predominate, in which case at least a two-year actual suspension is appropriate.[19] (Std. 2.15(b).) We find that Wanland's misconduct meets all the criteria of this standard. First, he incurred 25 federal felony and three misdemeanor convictions. Next, the facts and circumstances

[18] Standard 2.15 has since been amended to provide that summary disbarment is the sanction for a felony conviction involving moral turpitude. (§ 6102, subd. (c).)

[19] While this is Wanland's third discipline case, we do not base our disbarment recommendation on standard 1.8(b) (disbarment as presumptive discipline where attorney has two or more prior records). The misconduct underlying the present case occurred between 2000 and 2008, which was during the same period as Wanland's misconduct in his second discipline case. Thus, he "did not have an opportunity to appreciate or heed the import of the earlier discipline." (*In the Matter of Seltzer* (Review Dept. 2013) 5 State Bar Ct. Rptr. 263, 269.)

surrounding those convictions involve moral turpitude. He was continually deceitful to the IRS and to his former colleagues, he exhibited blatant contempt for tax laws and the integrity of the legal tax system, he refused to satisfy unresolved tax liabilities, and he participated in a pattern of criminal misconduct. This behavior constitutes moral turpitude. Finally, he failed to prove compelling mitigation; in fact, he proved no mitigation to offset his serious crimes and aggravating circumstances. (See *In re Strick* (1987) 43 Cal.3d 644, 656 [in conviction involving moral turpitude, level of discipline must correspond to reasonable degree with gravity of misconduct].)

Wanland has not identified an adequate reason, nor can we articulate any, to depart from recommending the presumptive discipline of disbarment called for in standard 2.15. (See *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5 [requiring clear reasons for departure from standards].) In addition to his criminal conduct, he has two records of prior discipline, demonstrated a pattern of misconduct, and has shown indifference. Disbarment is the appropriate discipline to adequately protect the public, the courts, and the legal profession, and is supported by comparable case law. (See *In the Matter of Ike* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483, 494 [disbarment necessary because nature, extent, and facts and circumstances surrounding felonies with numerous aggravating circumstances and lack of any substantial mitigating circumstances establish attorney is unfit to practice law].) Anything less than disbarment would undermine the public's confidence in the legal profession given Wanland's numerous serious criminal convictions, the moral turpitude findings, and his record of discipline. (*In the Matter of Burns* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 406, 416 [discipline system is responsible for preserving integrity of legal profession as well as protection of public].)

VIII. RECOMMENDATION

We recommend that Donald Martin Wanland, Jr., be disbarred from the practice of law and that his name be stricken from the roll of attorneys admitted to practice in California.

We further recommend that Wanland 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.

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

IX. ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

The order by the hearing judge that Donald Martin Wanland, Jr., be involuntarily enrolled as an inactive member of the State Bar pursuant to section 6007, subdivision (c)(4), effective August 20, 2018, will remain in effect pending consideration and decision of the Supreme Court on this recommendation.

PURCELL, P. J.

WE CONCUR:

HONN, J.

MCGILL, J.