

Filed April 22, 2019

STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT

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| In the Matter of |) | Case Nos. 17-N-06871; 17-O-06931 |
| |) | (Consolidated) |
| LESLIE VICTOR AMPONSAH, |) | |
| |) | OPINION |
| State Bar No. 164434. |) | |
| _____ |) | |

A hearing judge found Leslie Victor Amponsah culpable of failing to comply with California Rules of Court, rule 9.20,¹ and with two probation conditions in a prior disciplinary case. The judge recommended discipline that included a one-year actual suspension, noting that Amponsah made “attempted, albeit deficient, compliance efforts in the midst of extreme emotional distress,” and he did not demonstrate indifference to the disciplinary system.

The Office of Chief Trial Counsel of the State Bar (OCTC) appeals, seeking disbarment. Amponsah did not appeal and supports the hearing judge’s decision.

After independently reviewing the record under rule 9.12, we affirm the hearing judge’s culpability determinations, aggravation findings, and discipline recommendation, but we increase the mitigation weight for Amponsah’s emotional difficulties. A one-year actual suspension is appropriate given Amponsah’s overall mitigation, his cooperation in these proceedings, and his repeated attempts to file his rule 9.20(c) declaration. The recommended discipline is a significant sanction that properly addresses Amponsah’s misconduct in view of these circumstances.

¹ All further references to rules are to this source unless otherwise indicated.

I. PROCEDURAL BACKGROUND

OCTC filed a two-count Notice of Disciplinary Charges (NDC) against Amponsah on December 27, 2017, charging violations of rule 9.20 and of two disciplinary probation terms. On April 9, 2018, the parties filed a pretrial Stipulation as to Facts and Admission of Documents that established Amponsah's culpability. The hearing judge held the trial on April 17 and 30, and issued her decision on July 20, 2018. On review, Amponsah does not challenge the judge's factual or culpability findings, and we adopt them as supported by the record. The primary issue before us is to determine the appropriate level of discipline, which includes carefully evaluating the aggravating and mitigating factors, particularly Amponsah's emotional difficulties.

II. AMPONSAH'S RECORD OF DISCIPLINE

Amponsah was admitted to practice law in California in June 1993, and has one prior record of discipline. Amponsah stipulated that during 2016, he commingled personal and business funds in his client trust accounts (CTAs), and repeatedly used his CTAs to pay personal and business expenses, in violation of rule 4-100(A) of the Rules of Professional Conduct. In aggravation, he committed multiple acts of wrongdoing. In mitigation, he had practiced law for 22 years without discipline and cooperated by entering into the stipulation before disciplinary charges were filed. Amponsah agreed to a two-year stayed suspension, a 90-day actual suspension, and two years' probation with standard terms. The Hearing Department approved the stipulation and filed it on February 6, 2017.

On June 23, 2017, the Supreme Court issued its order imposing the stipulated discipline.² The order was properly served on Amponsah and became effective on July 23, 2017. It required Amponsah to comply with the notification provisions of rule 9.20(a) within 30 calendar days of

² Supreme Court No. S240903 (State Bar Court Nos. 16-O-14533 (16-O-16600; 16-O-16775)).

the effective date,³ and with the reporting requirements of rule 9.20(c) within 40 calendar days of the effective date.⁴ The order warned that failure to comply “may result in disbarment or suspension.” Rule 9.20(b) requires strict mailing guidelines for notification.⁵

III. FACTS SUPPORT CULPABILITY FINDINGS⁶

Count one of the NDC alleged that Amponsah failed to file a rule 9.20(c) compliance declaration by September 1, 2017, as ordered by the Supreme Court. Count two alleged that Amponsah failed to comply with his disciplinary probation, in violation of Business and Professions Code section 6068, subdivision (k),⁷ because he did not (1) timely arrange an initial meeting with the Office of Probation (Probation), or (2) submit a quarterly report that was due on October 10, 2017.

A. UNCONTESTED RULE 9.20 VIOLATION

Amponsah willfully violated rule 9.20 by failing to file a declaration of compliance. He was required to complete the rule 9.20(a) notice requirements by August 24, and then include that information in his rule 9.20(c) compliance declaration that was due September 1, 2017.

³ Rule 9.20(a)(1) and (4) require an attorney to do the following: (1) notify clients being represented in pending matters, along with any cocounsel, of a suspension and consequent disqualification to act as an attorney after the suspension’s effective date; (2) notify clients to seek other legal advice if there is no cocounsel; (3) notify opposing counsel in pending litigation; (4) if no opposing counsel, notify adverse parties of the suspension and consequent disqualification to act as an attorney after the suspension’s effective date; and (5) file a copy of the notice with the court, agency, or tribunal before which the litigation is pending.

⁴ Rule 9.20(c) requires an attorney to file an affidavit with the Clerk of the State Bar Court showing compliance with the provisions of the order entered under this rule within the time prescribed in the order after the effective date of the suspension.

⁵ All notices must be by registered or certified mail, return receipt requested, and must contain an address for the suspended attorney.

⁶ The facts are based on the stipulated facts, the trial evidence, and the hearing judge’s factual findings, to which we give great weight. (Rules Proc. of State Bar, rule 5.155(A).)

⁷ All further references to sections are to this source.

Amponsah did not make notifications according to the specific requirements in rule 9.20, but he did take some action to inform his clients of his suspension. For example, he asked Keith Landrum, his law partner of 24 years, to take over his caseload before his suspension took effect. Landrum agreed and contacted each client; some stayed with Landrum and others left the practice. Amponsah also wrote letters to his clients informing them that he would be suspended for 90 days as of July 23, 2017, that their files were being “handled, worked on and overseen by Mr. Keith Landrum Esq,” and that they should contact Landrum with questions. Six client letters were timely dated before the August 24, 2017 notification due date and six were late—dated August 31. But Amponsah admitted that he could not confirm the date he actually mailed them, nor did he send them by certified or registered mail, return receipt requested, as rule 9.20 requires. He further failed to notify opposing counsel, adverse parties, or the court (in his litigated matters). While Amponsah’s clients received timely actual notice of his suspension through Landrum’s efforts, Amponsah failed to comply with the specific notification requirements of rule 9.20(a).

As to rule 9.20(c), Amponsah did not file a proper compliance declaration. The probation deputy provided two reminder letters, on July 20 and August 24, 2017. When Amponsah did not file his declaration by September 1, the deputy sent a letter advising him that he had not filed a compliant rule 9.20 declaration, and that disciplinary charges could be filed.⁸

In early 2018, Landrum made three unsuccessful attempts to file the rule 9.20 compliance declaration on behalf of Amponsah. On January 31, Landrum submitted the first declaration to Probation, but did not file it with the State Bar Court, as instructed. On February 26, the probation deputy informed Landrum of the error and suggested he properly file the declaration.

⁸ Amponsah testified that he was unable to comply with his disciplinary obligations from July 2017 until January 2018, due to extreme emotional difficulties. Evidence establishing these difficulties is detailed in the mitigation section of this opinion.

Landrum filed a second declaration with the State Bar Court on February 28. On March 2, the supervising attorney in Probation informed Landrum by letter that this declaration was not compliant; it was incomplete and the attached supplemental declaration by Amponsah did not adequately demonstrate that he had timely complied with the notice requirements.

On April 2, 2018, Landrum filed a third declaration with the State Bar Court. On April 11, the supervising attorney informed Landrum by letter that this declaration also did not comply, noting that Amponsah admitted in his attached supplemental declaration that he was still in the process of notifying opposing counsel or adverse parties of his suspension—in other words, Amponsah had not completed the notification process that was due in August 2017. Both the April 11 and the March 2 letters to Landrum from the supervising attorney advised: **“Please note that it may not be possible to file a compliant [rule 9.20(c)] declaration because Respondent [Amponsah] did not complete all of the required tasks by the ordered deadlines.”** (Emphasis in original.)⁹

On August 1, after the hearing judge issued her July 20, 2018 decision, Amponsah’s trial counsel filed a motion in the Review Department requesting an extension of time to file the rule 9.20 declaration. The motion asserted that because the belated rule 9.20 declarations have been repeatedly rejected as non-compliant, the additional time would permit Amponsah to “resend certified letters to his former clients so that he can file a compliant 9.20 Declaration.” OCTC opposed the motion, and we denied it as untimely because the hearing decision and discipline recommendation had been filed. Though Amponsah made attempts to comply, he is

⁹ We note that this statement may be problematic for respondents. It could be interpreted to mean that any attempt to file a compliance declaration that is either itself late or states that notice of suspension was provided late is a futile endeavor because it will be deemed noncompliant. For this reason, as well as the attempts Landrum made to file Amponsah’s declaration, we do not find Amponsah has demonstrated indifference or is continually refusing to comply with rule 9.20 by failing to file his compliance declaration—since his notifications will be late, it seems likely that his compliance declaration would be deemed noncompliant.

culpable of failing to perform his rule 9.20(c) obligations, as charged in count one of the NDC. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187 [attorney is required to strictly comply with rule 9.20 obligations].)

B. UNCONTESTED PROBATION VIOLATIONS

Amponsah failed to timely comply with two probation terms. On July 20, 2017, the probation deputy provided a letter to Amponsah reminding him of his disciplinary obligations, which included scheduling an initial meeting with Probation by August 22, and filing his first quarterly report on October 10. The letter also contained several enclosures, including a blank rule 9.20 compliance form and a blank quarterly report form. Amponsah received the letter and left a voicemail message for the probation deputy on July 21, 2017, requesting a callback regarding the required meeting. On July 24, Amponsah made the same request by email. That day, the deputy emailed Amponsah and asked him to provide a date and time to meet. Amponsah did not respond due to his emotional difficulties.

Sometime after the NDC was filed in December 2017, Landrum began representing Amponsah and assisted him with his outstanding disciplinary obligations. On February 22, 2018, Landrum submitted Amponsah's quarterly reports that were due on October 10, 2017 and January 10, 2018.¹⁰ On February 27, Landrum also scheduled Amponsah's overdue initial probation meeting, which took place on March 5, 2018, by telephone. Despite his late compliance efforts, Amponsah is culpable for failing to timely comply with his probation terms, in willful violation of section 6068, subdivision (k), as charged in count two of the NDC. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536–537 [substantial compliance with probation conditions is not defense to probation violation].)

¹⁰ On February 26, 2018, the probation deputy emailed Landrum that the quarterly reports had been received, but were late and therefore were not compliant.

IV. AGGRAVATION AND MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct¹¹ requires OCTC to establish aggravating circumstances by clear and convincing evidence.¹² Amponsah has the same burden to prove mitigation. (Std. 1.6.) We agree with the hearing judge's aggravation and mitigation findings except that we assign increased weight in mitigation for Amponsah's emotional difficulties.

A. AGGRAVATION

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

The hearing judge deemed Amponsah's 2016 prior record of discipline to be a serious aggravating factor. OCTC argues that this prior discipline presents significant aggravation because it would have created in Amponsah a heightened sense of professional responsibility, and no facts diminish its weight. We find that serious aggravating weight is sufficient. Amponsah's prior case involved one count of commingling that merited a 90-day suspension, and it is not similar to his present misconduct. (See *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443–444 [similarities between prior and current misconduct render previous discipline more serious, as they indicate prior discipline did not rehabilitate].)

2. Multiple Acts of Misconduct (Std. 1.5(b))

The hearing judge assigned modest aggravating weight to Amponsah's multiple acts of misconduct, reasoning that the present misconduct arises from failing to comply with one Supreme Court order. (*In the Matter of Carver* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 348, 355 [modest weight for violation of three terms of reproof order].) OCTC argues that more

¹¹ All further references to standards are to this source.

¹² 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.)

weight should be afforded because the violations involve a Supreme Court rule 9.20 order *and* certain probation terms that, together, demonstrate Amponsah's unwillingness or inability to conform to his ethical responsibilities. We reject this argument and find that modest aggravating weight is appropriate for Amponsah's three acts of wrongdoing charged in the NDC (two probation violations and a rule 9.20 violation).

3. Indifference (Std. 1.5(k))

The hearing judge found that Amponsah did not demonstrate indifference toward rectification and atonement as an aggravating factor. OCTC argues that Amponsah has shown indifference because he has yet to file his rule 9.20 compliance declaration. As noted, Landrum made several failed attempts to file a declaration on behalf of Amponsah. Moreover, Probation twice informed Landrum that Amponsah may never be able to file a compliant declaration since he did not make timely rule 9.20 notifications. A reasonable person would find this directive by Probation to reflect that further attempts would be futile, and we have already considered Amponsah's failure to comply with rule 9.20 to establish his culpability. We do not consider it again in aggravation to demonstrate indifference. (*In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 133 [finding of aggravation inappropriate for conduct that formed basis for culpability].)

B. MITIGATION

1. Extreme Emotional Difficulties (Std. 1.6(d))

Standard 1.6(d) provides that mitigation may be assigned for extreme emotional difficulties or physical or mental disabilities if (1) the attorney suffered from them at the time of the misconduct, (2) they are established by expert testimony as being directly responsible for the misconduct, and (3) they no longer pose a risk that the attorney will commit future misconduct. The hearing judge found that Amponsah presented clear and convincing evidence that he

suffered extreme emotional difficulties at the time of his misconduct due to child custody and financial issues, and assigned moderate mitigating weight. We agree that mitigation is warranted, but we afford it greater weight.

To begin, the hearing judge found that Amponsah and his therapist, Patricia Allen, Ph.D. testified credibly. These findings are entitled to great weight. (Rules Proc. of State Bar, rule 5.155(A) [great weight given to hearing judge’s factual findings]; *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”].) On review, we are limited to examining a cold record and must rely on the hearing judge’s assessment of the witnesses’ demeanor and the nature and quality of their testimony. The hearing judge was in an appreciably better position than we are to conclude that Amponsah and Dr. Allen accurately and reliably recounted Amponsah’s emotional condition. We find that the record is devoid of sufficient evidence for us to depart from the judge’s well-reasoned conclusion given the quality and quantity of the testimony, as detailed below.

Amponsah testified that he suffered high levels of anxiety and was in a mental fog after he received the suspension order in July 2017. Having practiced law for 24 years, he felt ashamed to be suspended. With no income during a custody dispute over his six-year-old daughter, he worried that he would lose custody if he could not financially provide for her. He testified that he functioned by taking one thing at a time as he was “trying to focus on survival.” He lost weight, experienced tremors, and became withdrawn, as witnessed by his friends and Landrum. Landrum testified seeing Amponsah sit in a dark office for hours—a marked change from the detailed and organized attorney who had been his partner for more than two decades.

Amponsah also presented the expert testimony of Patricia Allen, who holds a Ph.D. in psychology and has 47 years of experience as a marriage/family/child therapist. Dr. Allen has

been Amponsah's treating therapist since 2006. She spoke of her long-term treatment of Amponsah and provided detailed facts about his emotional difficulties in the second half of 2017. Dr. Allen testified that Amponsah suffered from severe anxiety and post-traumatic stress disorder during the time of his misconduct (between July and December 2017) due to his custody battle and his extreme fear of losing custody of his daughter. Dr. Allen also confirmed that Amponsah's apprehension has since improved and his stress and anxiety levels have normalized. She stated that Amponsah "is a healthy man today"

OCTC argues that no mitigating credit should be assigned for emotional difficulties because Amponsah has not recovered from them and has yet to comply with his obligations under rule 9.20. We reject these arguments. First, Dr. Allen's testimony and other evidence are contrary to OCTC's assertion that Amponsah has not recovered. Second, Amponsah repeatedly, albeit unsuccessfully, attempted to file a compliant rule 9.20(c) declaration. Most recently, the supervising attorney in Probation informed him that he likely could not do so since he was already late on his notification requirements.

We conclude that Amponsah's testimony and that of his therapist established that his extreme emotional distress was directly responsible for his misconduct during the relevant times. The hearing judge assigned moderate mitigating weight to Amponsah's emotional difficulties. We assign substantial weight given the persuasive quality of the evidence. (*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 912 [testimony of respondent and marriage counselor established extreme emotional distress as mitigating factor].)

2. Cooperation with State Bar (Std. 1.6(e))

The hearing judge assigned significant mitigation credit for Amponsah's cooperation because he entered into a stipulation that admitted facts establishing his culpability, which conserved judicial time and resources. OCTC primarily argues that Amponsah is entitled to only

limited credit because the stipulated facts were easy to prove and Amponsah minimized his failures to comply with rule 9.20. We do not agree. Whether facts are easy to prove is only one aspect to consider in assigning mitigating weight. Overall, Amponsah demonstrated cooperation through his stipulation. Such action merits substantial mitigation. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation for those who admit culpability and facts].)

V. ONE-YEAR SUSPENSION IS APPROPRIATE PROGRESSIVE DISCIPLINE

OCTC contends Amponsah should be disbarred for failing to comply with rule 9.20. Amponsah argues that disbarment would be punitive since his misconduct was due to his emotional difficulties, for which he sought treatment and has now recovered. The hearing judge recommended discipline, including a one-year actual suspension, after considering the law and the standards, the seriousness of Amponsah's misconduct, his efforts to comply, his cooperation, and his lack of indifference. We agree with the hearing judge.

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts and the legal profession; to preserve public confidence in the profession; and to maintain high standards for attorneys. (Std. 1.1.) We begin our analysis with the guiding language of rule 9.20 and our disciplinary standards (*In re Silverton* (2005) 36 Cal.4th 81, 91–92 [standards entitled to great weight]; *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11 [standards to be followed wherever possible].)

Rule 9.20 provides that a violation is cause for either disbarment *or* suspension,¹³ and standard 2.14 instructs that actual suspension is appropriate for a violation of disciplinary

¹³ Rule 9.20(d) provides that a “suspended member’s willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation.”

probation. We acknowledge that Amponsah's violation of rule 9.20 presents circumstances that merit the more serious potential sanction.

In general, a rule 9.20 violation is deemed a serious ethical breach for which disbarment has been held to be appropriate. (See *Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) The rule performs the "critical prophylactic function" of notifying clients, counsel, adverse parties, and the courts about an attorney's discipline. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187.) Nonetheless, the Supreme Court has made it clear that each disciplinary 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.) And case law over the past several decades instructs that discipline less than disbarment has been imposed in rule 9.20 violation cases where the attorney demonstrated, for example, unsuccessful attempts to file a rule 9.20 declaration, significant mitigation, or little aggravation.¹⁴ The hearing judge's findings in Amponsah's case reflect that these factors are present and justify suspension rather than disbarment.

Most notably, the hearing judge found that the seriousness of Amponsah's misconduct was diminished by his extreme emotional difficulties and his attempts and efforts to comply with his disciplinary obligations. Even before his suspension took effect, he asked Landrum to help him. Landrum notified all of Amponsah's clients of the suspension, made three unsuccessful attempts to file Amponsah's rule 9.20 declaration, and eventually filed the late quarterly probation report and assisted Amponsah to meet with his probation deputy. For Amponsah's part, he fully participated in these proceedings, admitted to facts establishing culpability, and

¹⁴ *Shapiro v. State Bar* (1990) 51 Cal.3d 251 (one-year actual suspension for "totality of the circumstances," including timely notification but five-month late-filed affidavit after unsuccessful attempt; 16 years of discipline-free practice; physical and emotional problems; and good character); *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192 (nine-month actual suspension for failing to timely file declaration of compliance after unsuccessful attempts to file it two weeks late; two prior disciplines and multiple acts were aggravating and recognition of wrongdoing, pro bono activities, and lack of harm were mitigating).

proved that he has recovered from his emotional problems that led to his misconduct.

Landstrum's early contact with the clients, though deficient under rule 9.20's strict notification requirements, provided actual notice of Amponsah's suspension. Thus, the record contains no evidence of client harm. Under these circumstances, we agree with the hearing judge that "suspension rather than disbarment is appropriate because [Amponsah's] misconduct is not indicative of his ability to conform to ethical norms."

OCTC cites cases that it asserts support disbarment. But a review of these cases reveal that they are not comparable because they involve significant aggravating circumstances that are absent in Amponsah's case. In *Bercovich v. State Bar* (1990) 50 Cal.3d 116, the attorney made no attempts to comply and had a prior discipline for misappropriating more than \$100,000 and a probation revocation that had resulted in a two-year actual suspension and a five-year actual suspension, respectively. In *Dahlman v. State Bar* (1990) 50 Cal.3d 1088, the attorney had a prior discipline that had resulted in a three-year actual suspension and did not appear for the hearing to determine culpability for failing to comply with former rule 955 (now rule 9.20). In *In the Matter of Lynch* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287, the attorney's failure to file a former rule 955 compliance declaration was significantly aggravated by dishonesty to the courts, client harm, and the unlicensed practice of law. And in *In the Matter of Esau* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr 131, the attorney had three prior records of discipline that included repeated failures to comply with basic terms of probation.

Unlike these cases, Amponsah appeared for the proceedings, was not dishonest, has one prior record of discipline that resulted in a 90-day actual suspension, proved his emotional difficulties were directly responsible for his misconduct, and established by expert testimony that he has recovered. This is not a case where Amponsah ignored his disciplinary obligations, as in *Dahlman v. State Bar, supra*, 50 Cal.3d at p. 1096, where the attorney was disbarred for ignoring

efforts of the State Bar and the Supreme Court to obtain his compliance with rule 9.20 and “evidenced an indifference to the disciplinary system.” Nor is Amponsah’s case similar to *In the Matter of Pierce* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 382, 388, where we recommended disbarment for an attorney with two prior disciplines who demonstrated “ostrich-like behavior” in failing to timely file the rule 9.20 compliance declaration.

The hearing judge considered all the factors and relied on comparable case law to support her suspension recommendation. In particular, the judge relied on *Shapiro v. State Bar, supra*, 51 Cal.3d 251, 259–260, where the Supreme Court imposed discipline including a one-year actual suspension for willful violation of former rule 955 and client abandonment. The *Shapiro* court found that the attorney made an unsuccessful, but diligent, attempt to comply with rule 9.20, resulting in a five-month delay. Like Amponsah, Shapiro presented substantial mitigation about the physical and psychological difficulties he experienced during the time of his misconduct, as well as evidence that he had recovered from his problems. In considering this mitigation, the *Shapiro* court emphasized the “overriding principle that the purpose of these proceedings is not to punish an attorney but to inquire into the moral fitness of an officer of the court to continue in that capacity and to afford protection to the public, the courts, and the legal profession.” (*Id.* at p. 260, citing *Clancy v. State Bar* (1969) 71 Cal.2d 140, 151.)

Guided by the cases, the standards, and the language of rule 9.20 itself, we find that an actual suspension is appropriate discipline for Amponsah’s rule 9.20 violation and his two probation violations. To determine the appropriate period of suspension, we consider the principle of progressive discipline.¹⁵ Since Amponsah served a 90-day actual suspension in his prior case, a one-year actual suspension is significantly progressive and appropriate to his

¹⁵ Standard 1.8(a) provides, “If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.”

misconduct to accomplish the goals of attorney discipline without being punitive. (See std. 1.2(c)(1) [“Actual suspension is generally for a period of thirty days, sixty days, ninety days, six months, one year, eighteen months, two years, three years, or until specific conditions are met”].) As the hearing judge aptly summarized, “In consideration of the totality of the circumstances, including the relevant mitigating and aggravating factors, and the range of discipline suggested by rule [9.20], the standards, and the case law, the court recommends that one year’s actual suspension will adequately protect the public.”

VI. RECOMMENDATION¹⁶

For the foregoing reasons, we recommend that Leslie Victor Amponsah be suspended from the practice of law for two years, that execution of that suspension be stayed, and that he be placed on probation for two years with the following conditions:

1. Amponsah must be suspended from the practice of law for the first year of his probation.
2. Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Amponsah must (1) read the California Rules of Professional Conduct, Business and Professions Code sections 6067, 6068, and 6103 through 6126, and rule 9.20, and (2) provide a declaration, under penalty of perjury, attesting to his compliance with this requirement, to the State Bar’s Office of Probation in Los Angeles with his first quarterly report.
3. Amponsah must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.
4. Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Amponsah must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has his current office address, email address, and telephone number. If he does not maintain an office, he must provide the mailing address, email address, and telephone number to be used for State Bar purposes. He must report, in writing, any change in the above information to ARCR, within 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, Amponsah must schedule a meeting with his assigned probation case

¹⁶ We do not recommend that Amponsah take and pass the State Bar’s Ethics School or the Multistate Professional Responsibility Examination because he was previously ordered to do so in Supreme Court No. S240903.

specialist to discuss the terms and conditions of his 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, he may meet with the probation case specialist in person or by telephone. During the probation period, he 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 Amponsah's probation period, the State Bar Court retains jurisdiction over him to address issues concerning compliance with probation conditions. During this period, he must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to his official membership address, as provided above. Subject to the assertion of applicable privileges, Amponsah must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
 - a. **Deadlines for Reports.** Amponsah 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, Amponsah must submit a final report no earlier than ten days before the last day of the probation period and no later than the last day of the probation period.
 - b. **Contents of Reports.** Amponsah must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether he 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.
 - c. **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).
 - d. **Proof of Compliance.** Amponsah is directed to maintain proof of his 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 his actual suspension has ended, whichever is longer. He is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

7. For a minimum of one year after the effective date of discipline, Amponsah is directed to maintain proof of his compliance with the Supreme Court's order that he comply with the requirements of California Rules of Court, rule 9.20(a) and (c). Such proof must include the names and addresses of all individuals and entities to which notification was sent pursuant to rule 9.20; copies of the notification letter sent to each such intended recipient; the original receipt and tracking information provided by the postal authority for each such notification; and the originals of all returned receipts and notifications of non-delivery. Amponsah is required to present such proof upon request by OCTC, the Office of Probation, and/or the State Bar Court.
8. The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Amponsah has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

VII. RULE 9.20

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

VIII. COSTS

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. 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.

PURCELL, P. J.

WE CONCUR:

HONN, J.

McGILL, J.

Nos. 17-N-06871; 17-O-06931

In the Matter of
LESLIE VICTOR AMPONSAH

Hearing Judge
Hon. Cynthia Valenzuela

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