PUBLIC MATTER—NOT DESIGNATED FOR PUBLICATION

Filed March 22, 2022

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case No. SBC-20-N-30650
	)	
DONALD S. EDGAR,	)	OPINION AND ORDER
	)	
State Bar No. 139324.	)	
	)	

This matter emphasizes the importance of full compliance with California Rules of Court, rule 9.20.[1] It is not sufficient for an attorney to partially comply with his reporting and notice obligations, even when confused or unaware of the required duties. When an attorney fails to timely comply, it remains mandatory for the attorney to complete the obligations imposed by the rule. As in this case, failure to do so may result in very severe discipline.

This is Donald S. Edgar's second discipline case. As a part of his first discipline order, Edgar was required to comply with rule 9.20. In this matter, a hearing judge found Edgar culpable of four counts of misconduct related to his failure to comply with rule 9.20 and recommended that he be disbarred. Edgar seeks review.

Upon independently reviewing the record under rule 9.12, we affirm the hearing judge's culpability findings and disbarment recommendation. Edgar admits he did not fully comply with rule 9.20 but argues that he was confused on the deadline for compliance with rule 9.20 and since

[1] All further reference to rules is to this source unless otherwise noted.

he filed a supplemental declaration explaining his position, he was not required to demonstrate perfect compliance with the rule. He seeks a period of actual suspension, rather than disbarment. Edgar's willful violation of rule 9.20 demonstrates an unwillingness to conform to the ethical responsibilities required of attorneys. Given the weight of the aggravation and mitigation, we are unable to reach any reasonable conclusion that would justify us deviating from disbarment in this case.

I. PROCEDURAL BACKGROUND

The Office of Chief Trial Counsel of the State Bar (OCTC) filed a four-count Notice of Disciplinary Charges (NDC) against Edgar on September 24, 2020, charging violations of rule 9.20. On October 20, 2020, Edgar filed his response to the NDC. On December 29, 2020, the parties filed a pretrial Stipulation as to Facts (Stipulation). The hearing judge held trial on January 19, 2021, and issued her decision on April 19, 2021.

II. FACTUAL BACKGROUND[2]

Edgar was admitted to practice law in California on January 31, 1989, and has one prior record of discipline. His prior discipline involved 14 counts of misconduct, including moral turpitude for falsely representing the amount of his expenses and misappropriating $65,000 in client funds in a mass tort litigation action. In connection with that discipline, Edgar stipulated to a three-year stayed suspension, three years' probation and a two-year actual suspension, continuing until he provides proof of his rehabilitation and fitness to practice law.

On November 4, 2019, the Supreme Court issued its order imposing the stipulated discipline (Discipline Order).[3] The order required Edgar to comply with rule 9.20 and warned

[2] The facts are based on the Stipulation, 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).)

[3] Supreme Court No. S257574 (State Bar Court Nos. 18-O-10735; 18-O-12763; 18-O-12536; 18-O-10284; 18-O-13034; 18-O-12824; and18-O-10653).

that failure to do so "may result in disbarment or suspension." Specifically, the order required compliance with rule 9.20(a) (notice to clients, opposing counsel and courts) and 9.20(c) (filing proof of compliance) within 30 and 40 calendar days, respectively, after the effective date of the order. The Discipline Order became effective on December 4, 2019. Edgar testified that he timely received and read the order.

As of November 4, 2019, the operative date of the Discipline Order for identifying clients being represented in pending matters under rule 9.20, Edgar was representing clients in 12 litigation matters.[4] Between November 25 and December 3, 2019, he filed Substitution of Attorney forms and withdrew as counsel of record in nine of those matters. Edgar filed Substitution of Attorney forms and withdrew as counsel of record in the remaining three matters between December 6 and December 11.

On December 3, 2019, the State Bar's Office of Probation (Probation) emailed and uploaded a courtesy letter to Edgar's attorney profile page on the State Bar's website outlining the terms and conditions of his probation. The letter reminded him of his obligations, reporting schedule and requirements, and the consequences of non-compliance. On December 22, he hired counsel to help him comply with the conditions of his suspension and probation. Edgar did not provide timely notice to clients, opposing counsel, and courts that complied with the

[4] *Smylie v. PG&E*, Sonoma County Superior Court, Case No. SCV-262539; *Peters v. Wine Country RV Park*, Sonoma County Superior Court, Case No. SCV262993; *Estate of Kukuk*, Santa Clara County Superior Court, Case No. 19PR186238; *Bump v. Chough, MD*, Napa County Superior Court, Case No. 18CV001113; *Beecher v. Dickerson*, Solano County Superior Court, Case No. FCS-053356; *Maxwell et. al. v. Casey Wayne Doyle*, Marin County Superior Court, Case No. C1V1900451; *David v. Harris*, Sonoma County Superior Court, Case No. SCV-264975; *Henninger v. Real Estate Advisory, LLC*, Los Angeles County Superior Court, Case No. 19STCV02807; *Shikhman v. One Medical Group, Inc.*, San Francisco County Superior Court, Case No. CGC-19-576677; *Messer v. Apple Valley Post Acute Rehab*, Sonoma County Superior Court, Case No. SCV262414; *Sanders v. Kumar*, Sonoma County Superior Court, Case No. SCV263976; and *Chappell v. Parrish*, Sonoma County Superior Court, Case No. SCV263567.

requirements of rule 9.20(a) by January 3, 2020, as required by the Discipline Order, nor did he provide even untimely notice at any point during this disciplinary proceeding.

On January 13, 2020, Edgar filed a Rule 9.20 Compliance Declaration (9.20 Declaration) with the State Bar Court using the standard form. Edgar's 9.20 Declaration was not compliant because he did not check either of the two boxes indicating that he had either: (1) notified all clients, opposing counsel, and courts of his disqualification to act as an attorney after the effective date of the Discipline Order; or (2) that he had no clients as of the filing date of the Discipline Order. Instead, he attached a document to the standard form entitled "Supplemental Rule 9.20 Compliance Declaration" (Supplemental Declaration), which stated that he mistakenly believed that certified notifications under rule 9.20(a) would only need to be sent to clients, opposing counsel, and courts in pending matters in which he was still the attorney of record as of December 4, 2019.[5] As noted, *ante*, the effect of the Supreme Court order required Edgar to notify all of his clients as of November 4, 2019, per the provisions of rule 9.20. The hearing judge did not find credible Edgar's testimony regarding his mistaken belief that he thought it was clients, opposing counsel, and unrepresented parties in cases where he was counsel as of December 4 or later to whom notice was to be provided. The judge rejected this testimony because Edgar continued to represent three parties in three separate cases on December 4 and he had actual knowledge of his compliance duties and timelines from the Discipline Order, the December 3 letter from Probation, and through his counsel as of December 22.

On January 17, 2020, Probation notified Edgar by letter of his noncompliant 9.20 Declaration and specifically reminded him of his obligations. Probation included a blank rule 9.20 compliance form and stated that he may wish to submit a new rule 9.20 Declaration.

[5] As of December 4, 2019, Edgar was counsel in three cases: *Smylie v. PG&E*, *Peters v. Wine Country RV Park*, and *Estate of Kukuk*.

Despite receiving the letter, Edgar did not submit any subsequent rule 9.20 compliance declarations or make any belated efforts to comply. He stipulated that at no time did he provide notice of his suspension to his clients in the 12 cases referenced above by registered or certified mail as required by rule 9.20(a)(1). He also stipulated that he failed to provide notice of his suspension to opposing counsel in the 12 identified cases or file such notices with the courts as required by rule 9.20(a)(4).

Edgar testified that he withdrew from over 200 pending matters in preparation for his suspension and communicated the withdrawal to his clients. The hearing judge found his testimony to be credible but concluded that he failed to establish by clear and convincing evidence[6] that he informed his clients of the reason for his withdrawal being his disciplinary suspension. Edgar also testified he was confused regarding the November 4, 2019 date establishing when notice for pending matters was triggered. The hearing judge found his testimony credible because OCTC and Edgar stipulated that the rule 9.20 compliance notice was due by December 4, 2019, rather than January 3, 2020, as prescribed by rule 9.20(a) and in the Discipline Order. On April 1, 2020, Edgar submitted his first required quarterly probation report in which he reported his noncompliance with rule 9.20 but did not indicate that he was attempting to address the deficiencies.

III. EDGAR IS CULPABLE OF VIOLATING RULE 9.20

Count one of the NDC alleged that Edgar failed to file a rule 9.20(c) compliance declaration by January 13, 2020, as ordered by the Supreme Court. Count two alleged that Edgar failed to notify clients in 12 pending matters of his disciplinary suspension as required by rule

[6] 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.)

9.20(a)(1). Similarly, count three alleged that Edgar failed to notify opposing counsel, or, in the absence of counsel, unrepresented opposing parties in the 12 pending matters of his disciplinary suspension, and count four alleged he failed to file such notices with the respective courts where the cases were pending, as required by and in violation of rule 9.20(a)(4). The hearing judge found Edgar willfully culpable of violating rule 9.20 as charged in all four counts. The judge concluded that the same misconduct was the basis for counts three and four and therefore declined to assign additional weight in culpability for count four. We agree and affirm the judge's culpability findings. We find that Edgar is culpable of all four counts of misconduct, but do not assign additional weight in discipline for count four because the same misconduct was the basis for counts three and four. (*In the Matter of Moriarty* (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511, 520 [no additional weight in determining discipline where same misconduct underlies two violations].)

The facts here are undisputed and Edgar's interpretation of the case law is not supported by authority. 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 co-counsel, 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 co-counsel; (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. 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.

Edgar was required to file a rule 9.20(c) compliance declaration by January 13, 2020, but failed to do so. Rule 9.20(c) required Edgar to file with the Clerk of the State Bar Court an affidavit showing compliance. Instead, on January 13, 2020, Edgar filed a Supplemental Declaration stating he was noncompliant with the rule. We reject Edgar's argument that he is not culpable because his declaration was "truthful" and disclosed that he was unable to achieve "perfect compliance" due to his confusion over the rule 9.20 reporting deadlines. Willfulness of a rule 9.20(c) violation requires neither bad faith nor even actual knowledge of the rule provision violated. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1185–1186 [predecessor rule 955].) Filing a Rule 9.20 Declaration acknowledging a failure to comply with rule 9.20(a) does not satisfy the requirements of the rule. An attorney is required to strictly comply with rule 9.20 obligations. (*Lydon v. State Bar, supra,*45 Cal.3d at p. 1187.)

Probation sent Edgar a letter on January 17, 2020, advising him that he had not filed a compliant rule 9.20 Declaration and provided him with a blank rule 9.20 compliance form should he wish to refile. Despite being notified of the error with his 9.20(c) filing, Edgar chose not to file a proper compliance declaration. In fact, he did not file a proper rule 9.20(c) compliance declaration at any point during this disciplinary proceeding. We find that, by refusing to perform his rule 9.20(c) obligations, Edgar willfully violated rule 9.20 as charged in count one of the NDC.

As for counts two, three, and four of the NDC, Edgar failed to give proper notification based on the specific requirements in rule 9.20 to clients, opposing counsel, and the courts, respectively, in the 12 pending matters where he was counsel of record as of November 4, 2019. Pursuant to rule 9.20(a), Edgar was required to provide notice by January 3, 2020. Edgar stipulated that he failed to provide notice of his suspension to clients, opposing counsel, and the courts in the 12 pending cases as required by rule 9.20(a)(1) and (4). He raises several

arguments on review in an attempt to excuse his failure to fully comply with rule 9.20(a).[7] We reject his arguments as unsupported by the case law.

Edgar argues he provided actual notice to his clients but concedes that he failed to send the notice by registered or certified mail as required by the rule.[8] He relies on the Substitution of Attorney form he filed in nine of the 12 pending matters to assert that he believed if he substituted out of his cases before December 4, 2019, then he would be relieved of his obligation to send notices by registered mail. However, filing substitutions of attorney in pending cases after the Supreme Court order is filed does not fulfill rule 9.20 compliance obligations. (*In the Matter of Eldridge* (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 413, 416-417.) He also relies on *Athearn v. State Bar* (1982) 32 Cal.3d 38, to support his argument, yet *Athearn* establishes the opposite by holding that substituting out of pending cases does not alleviate the duty to inform clients and others of an attorney's suspension. (*Athearn v. State Bar*, *supra*, 32 Cal.3d at p. 45.)

Edgar also claims he was confused about the compliance date for the rule 9.20 notification requirement largely because he and OCTC incorrectly stipulated that Edgar had to provide rule 9.20 notices by December 4, 2019, instead of the true date for compliance which was January 3, 2020. We find no merit to Edgar's argument because he was aware of his duty to comply with the notification requirements of rule 9.20 based on the language from the underlying stipulation in his prior case, the Discipline Order, and the two written reminders sent to him by Probation. Edgar was represented by counsel as of December 22, 2019, and case law

[7] Having independently reviewed all arguments set forth by Edgar, those not specifically addressed have been considered and rejected as without merit.

[8] The hearing judge found Edgar's testimony uncorroborated that he provided actual notice of his suspension to his clients. Our review of the record supports the judge's finding. Edgar did not present testimony or documents from clients to establish by clear and convincing evidence that he contacted and notified them of his suspension.

makes clear that, 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. (*Athearn v. State Bar*, *supra,* 32 Cal.3d at p. 46).[9] Edgar's justifications for failing to comply with rule 9.20 are inappropriate and he did not state any intention to, nor did he, comply. Accordingly, we find him culpable of counts two, three and four in violation of rule 9.20(a).

IV. AGGRAVATION AND MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct[10] requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Edgar to meet the same burden to prove mitigation.

A. Aggravation

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

The hearing judge found Edgar's one prior record of discipline to be a significant aggravating factor considering the severity of the misconduct. Neither OCTC nor Edgar contest this finding on review. Edgar's prior case involved 14 counts of misconduct involving moral turpitude, including falsely representing the amount of his expenses and misappropriating over $65,000 in client funds. He stipulated to a two-year actual suspension. In aggravation, Edgar committed multiple acts and caused significant harm to his clients. In mitigation, he had no prior record of discipline, cooperated with the State Bar, was experiencing extreme emotional

[9] At oral argument, Edgar's counsel asserted that Edgar had no duty to continue to perform after missing the January 3, 2020 compliance deadline; however, quite the contrary is true as held in *Athearn*. The Supreme Court recognized an attorney's duty as a continuing one by imposing discipline requiring the attorney to be suspended from practice *until he complies fully with rule 955* [the predecessor of rule 9.20]. (*Athearn v. State Bar*, *supra*, 32 Cal.3d at p. 46.) (Emphasis added.)

[10] All references to standards are to this source.

difficulties, established good character, community service, and pro bono work. Given the serious nature of Edgar's prior misconduct and the proximity in time between his prior and current misconduct, we assign substantial aggravating weight to Edgar's discipline history. (See *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619 [prior discipline aggravating because it is indicative of recidivist attorney's inability to conform his conduct to ethical norms].)

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

The hearing judge found that Edgar's misconduct did not involve multiple acts because all the misconduct in this case arose from him failing to comply with the requirements of rule 9.20. OCTC argues that Edgar's misconduct involved numerous acts, different parties, and different cases. We reject this argument and find that aggravation for multiple acts is not appropriate here; the focus is on the nature of the misconduct, not the number of charges proven. (See *In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 839 [no multiple acts where two charges arise out of modification of single contingent fee agreement].) Although the NDC charged Edgar with four counts of misconduct and he was found culpable of each count, the underlying wrongdoing stems from him violating rule 9.20. Accordingly, we do not assign aggravation for multiple acts.

B. Mitigation

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

The hearing judge assigned moderate mitigation credit for Edgar's cooperation because, although he entered into a Stipulation that conserved judicial time and resources, in rule 9.20 matters, the facts establishing culpability are easily provable. Edgar argues he is entitled to significant mitigation for admitting to most of the facts alleged in the NDC and some culpability. Edgar did not admit to culpability for each count, however, he stipulated to facts that, along with

his trial testimony, established culpability. While we acknowledge that he demonstrated cooperation by his pre-trial Stipulation, his cooperation was not extensive enough to warrant full mitigating weight. (*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].) Accordingly, Edgar is entitled to moderate weight for his cooperation.

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

Standard 1.6(f) entitles Edgar 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." Edgar presented testimony of five witnesses, which included two attorneys, and submitted declarations from two additional attorneys. The hearing judge concluded that witnesses who testified represented a wide range of references, spoke highly of Edgar's character, and demonstrated a full understanding of the extent of his misconduct. However, the judge only afforded Edgar moderate weight because the attorney declarants did not show that they were aware of the full extent of his misconduct.

Edgar challenges the hearing judge's finding and argues he is entitled to "very significant mitigation." Although the testimony of attorneys is valued because of their "strong interest in maintaining the honest administration of justice" (*Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319), to receive full mitigation Edgar had the burden of establishing that each of his character witnesses was fully aware of the extent of the disciplinary charges against him. Since the two declarants did not demonstrate familiarity with the full extent of Edgar's misconduct, we affirm the hearing judge's finding and assign moderate weight in mitigation to this circumstance.

3. Pro Bono Work and Community Service

Pro bono work and community service are mitigating circumstances. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785.) The hearing judge did not assign any mitigation to Edgar for his community service. On review, Edgar emphasizes that his decades of community service to Santa Rosa Junior College, including serving on its Board of Directors, was corroborated by two of his character witnesses. We find that the record supports his community involvement. Edgar testified extensively regarding his service on various boards and volunteer work at several community organizations including the California Community College Board of Trustees, Cardinal Newman High School, the Board of the Sonoma County Taxpayers Association, the Catholic Diocese of Santa Rosa, San Jose Neptune Swim Club, and the California State Fair Board for Petaluma. Although Edgar's community service evidence is primarily supported through his testimony and generalized facts from witnesses, we find Edgar is entitled to moderate weight for establishing community service. (See *In the Matter of Jensen* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283, 291 [considerable mitigation to commendable community service established by attorney's corroborated testimony].)

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

Edgar requests mitigation for remorse in acknowledging his misconduct. Standard 1.6(g) provides mitigation credit where an attorney takes "prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement." Based on our review of the record, not only was Edgar's rule 9.20 Declaration noncompliant, but he failed to take any action completing the notice requirements of the Discipline Order, or file a belated rule 9.20(c) compliance declaration. To qualify for mitigating weight, Edgar was required to spontaneously take steps to atone for his delinquencies; he did not. Therefore, we decline to assign any mitigation for remorse and recognition of wrongdoing.

5. Lack of Client Harm (Std. 1.6(c))

Standard 1.6(c) provides for mitigation where lack of harm to clients, the public, or the administration of justice can be established. The hearing judge found Edgar's claim that no clients were harmed to be unsubstantiated since no clients testified during the proceeding to establish a lack of harm. Edgar does not challenge this finding on review. Given the lack of evidence and based on our independent view of this record, we affirm the judge's finding and do not provide any additional weight in mitigation.

V. DISBARMENT IS THE APPROPRIATE DISCIPLINE

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 professional standards for attorneys. (Std. 1.1.) Rule 9.20 and the disciplinary standards guide our analysis. (*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].) To determine the appropriate discipline, we consider standard 1.8(a), which 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."

A rule 9.20 violation is cause for either disbarment or suspension.[11] In general, a rule 9.20 violation is deemed a serious ethical breach for which disbarment is appropriate. (See *Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059.) On occasion, discipline less than disbarment has been imposed in instances where

[11] Rule 9.20(d) provides that a "suspended licensee'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."

the attorney demonstrated unsuccessful attempts to file the rule 9.20 declaration and established significant mitigation or little aggravation. (See *Shapiro v. State Bar* (1990) 51 Cal.3d 251, 255–260; *In the Matter of Amponsah* (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646, 656–657; *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527.) However, those factors are not present in this case.

When recommending disbarment, the hearing judge found guidance from two recent cases involving rule 9.20 violations, *In the Matter of Braun* (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738 and *In the Matter of Amponsah, supra,* 5 Cal. State Bar Ct. Rptr. 646. OCTC requests that we affirm the judge's recommendation. Edgar urges that a period of actual suspension not to exceed six-months is sufficient, relying on *Durbin v. State Bar* (1979) 23 Cal.3d 461. He asserts he is only culpable of one count of misconduct, which he argues does not warrant disbarment. We disagree. In our view, *Durbin* is distinguishable from Edgar's record here. The attorney in *Durbin* timely complied with the notification requirements under former rule 955(a); however, he did not file a necessary compliance declaration, whereas here Edgar failed to comply with any of the requirements of rule 9.20(a).

The hearing judge contrasted Edgar's rule 9.20 violation to the facts in *Matter of Amponsah*, *supra*, 5 Cal. State Bar Ct. Rptr. at pp. 651–653. In *Amponsah* this court found convincing evidence to justify suspension rather than disbarment. Amponsah made several attempts, albeit unsuccessful, to timely comply with his rule 9.20 disciplinary obligations. Amponsah admitted to facts establishing culpability and proved that he has recovered from his serious emotional problems that led to his misconduct.

In *Braun*, the attorney filed his rule 9.20 compliance declaration five months late and also failed to comply with three conditions of his disciplinary probation. In aggravation, Braun committed multiple acts of misconduct and he had three prior records of discipline, including a

private reproval, stayed suspension and one-year actual suspension. Although Edgar's case has only one prior imposition of discipline rather than three in *Braun*, Edgar has demonstrated by his current misconduct that he is unwilling to fulfill the ethical responsibilities required of an attorney.

Unlike the attorneys in *Amponsah* and *Braun*, who ultimately filed belated Rule 9.20 compliance declarations, Edgar willfully failed to comply with rule 9.20(c) altogether. "Disobedience of a court order, . . . demonstrates a lapse of character and a disrespect for the legal system that directly relate to an attorney's fitness to practice law . . . . [Citation.]" (*In re Kelley* (1990) 52 Cal.3d 487, 495.) The record before us does not provide strong mitigating evidence to justify Edgar's misconduct and he has not articulated any compelling reason to explain his non-compliance with his court-ordered licensure duties. Considering the misconduct, the weight of the aggravating and mitigation factors, the range of discipline suggested by rule 9.20, and the relevant case law, we recommend that Edgar be disbarred to adequately ensure public protection.

VI. RECOMMENDATION

It is recommended that Donald S. Edgar, State Bar Number 139324, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys.

VII. CALIFORNIA RULES OF COURT, RULE 9.20

It is further recommended that Donald S. Edgar 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.[12]

[12] 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, supra,*

VIII. MONETARY SANCTIONS

The court does not recommend the imposition of monetary sanctions in this matter, as all of the misconduct in this matter commenced before April 1, 2020. (Rules Proc. of State Bar, rule 5.137(H).)

IX. 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, and may be collected by the State Bar through any means permitted by law. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

X. ORDER OF INACTIVE ENROLLMENT

The order that Donald S. Edgar be involuntarily enrolled as an inactive attorney of the State Bar pursuant to section 6007, subdivision (c)(4), effective April 22, 2021, will remain in effect pending consideration and decision of the Supreme Court on this recommendation.

HONN, J.

WE CONCUR:

McGILL, Acting P.J.

STOVITZ, J.

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32 Cal.3d at p. 45.) Further, Edgar is required to file a rule 9.20(c) affidavit even if he 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).)