PUBLIC MATTER – NOT DESIGNATED FOR PUBLICATION

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	SBC-19-O-30583
	)	
ROBERT DANIEL RODRIGUEZ,	)	OPINION AND ORDER
	)	
State Bar No. 242396.	)	
	)	

This matter involves an array of misconduct by Robert Daniel Rodriguez, in which a hearing judge found Rodriguez culpable of nine charges, the most serious involving two moral turpitude violations for misappropriation and misrepresentation. In addition, he was found culpable of failing to maintain funds in a client trust account (CTA), failing to inform clients of significant developments (two counts), failing to perform with competence, seeking to mislead a judge, violating a law requiring him to timely pay for court reporting services, and failing to cooperate in five separate State Bar investigations. The judge found Rodriguez's intentional misappropriation and successive misrepresentations to a superior court judge qualified him for disbarment under multiple disciplinary standards. After further finding Rodriguez's mitigation was insufficient in light of his misconduct and serious aggravation, including his indifference, she concluded his behavior "[did] not reveal an ability or willingness to comply with his ethical responsibilities" and recommended disbarment.

Rodriguez appeals and raises a number of procedural arguments along with challenges to the hearing judge's culpability findings. He asserts disbarment is a drastic measure and unmerited given his medical and financial circumstances, and that the State Bar lacks

compassion in taking these circumstances into account. He challenges most of the judge's aggravation findings and requests his expression of remorse at trial be given mitigating weight. As for discipline, he argues it should not include disbarment or an actual suspension. The Office of Chief Trial Counsel of the State Bar (OCTC) does not appeal and requests we uphold the judge's discipline recommendation.

Upon our independent review of the record pursuant to California Rules of Court, rule 9.12, we affirm the hearing judge's findings and disbarment recommendation. Rodriguez's continued indifference, combined with several serious ethical violations that include multiple acts of dishonesty, makes disbarment necessary to fulfill the purposes of discipline.

I. PROCEDURAL BACKGROUND

OCTC filed a Notice of Disciplinary Charges (NDC) on October 21, 2019. Rodriguez filed an answer to the NDC on November 15. Trial was held on February 17, 18, 19, and 23, 2021. The parties submitted posttrial briefs and the hearing judge issued her decision on April 27. Rodriguez filed a request for review on April 28. After briefing was completed, we heard oral argument on December 16, 2021. During oral argument, Rodriguez asked we strike certain portions of OCTC's responsive brief. His request is denied for lack of good cause.

II. RODRIGUEZ'S PROCEDURAL ARGUMENTS

Rodriguez claims the hearing judge erred by (1) denying a request for continuance, (2) applying inadmissible character evidence, (3) denying his request for expert witnesses at trial, (4) denying a request for an Americans with Disabilities Act (ADA) accommodation, (5) denying motions in limine, (6) admitting his bank records, (7) denying his claim of laches and prejudicial delay, and (8) denying a request to take judicial notice of certain records. The standard of review we apply to procedural rulings is abuse of discretion or error of law. (*In the Matter of Respondent L* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 454, 461.) Therefore, we

evaluate whether or not the judge exceeded the "bounds of reason," given all the circumstances before the court. (See *In the Matter of Geyer* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 74, 78.) We have reviewed all of Rodriguez's procedural arguments and find none are supported by fact or law. He failed to establish that the judge abused her discretion or erred regarding any of his claims. Further, he did not specify how the judge's decisions prejudiced his case. (*In the Matter of Hertz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456, 469 [attorney must show specific prejudicial effect].) Therefore, we reject his procedural arguments.

III. THE REBELO MATTER

A. Factual Background[1]

In 2014, Rodriguez began representing Theresa Rebelo in a personal injury matter. The case settled for $40,000 on May 17, 2016, and Rebelo approved the distribution of funds: (1) $16,500 in attorney's fees and costs to Rodriguez; (2) $8,070 to be retained by Rodriguez for the satisfaction of two medical liens subject to negotiation with the lienholders ($4,000 was owed to Medicare and $4,070 was owed to Sutter Health); and (3) $15,430 for distribution to Rebelo with the caveat that any leftover funds after the liens were negotiated would be disbursed to Rebelo.

On June 14, 2016, Rodriguez disbursed the $15,430 to Rebelo. On July 26, Rodriguez achieved a lien reduction for Sutter Health to $2,362.96. Therefore, additional funds of $1,704.04 ($4,070 minus $2,362.96) should have been disbursed to Rebelo. On August 12, Rodriguez wrote a check to Rebelo for only $1,642.32, which was $64.72 short of the entire $1,704.04. Medicare reduced its lien from $4,000 to $35.35, which should have resulted in an additional disbursement of $3,964.65 to Rebelo. However, Rodriguez issued Rebelo a check for

[1] Our factual findings in this opinion are based on trial testimony, documentary evidence, and the hearing judge's factual and credibility findings, which are entitled to great weight. (Rules Proc. of State Bar, rule 5.155(A).)

a slightly larger amount, $3,965.48, on October 25. On December 20, Rodriguez sent Medicare a check for the $35.35.

Despite his payments to Medicare and Rebelo, Rodriguez did not pay the $2,362.96 owed to Sutter Health. The remaining funds from the settlement should have remained in his CTA, but by February 10, 2017, his CTA balance was $0. On February 16, 2017, Rebelo received a letter from Sutter Health informing her that Rodriguez had not paid the $2,362.96 owed. Rebelo contacted Rodriguez, who claimed he had paid the lien. After Rebelo persisted, Rodriguez assured Rebelo he would send a check. Rebelo waited three weeks and did not receive a check from Rodriguez. She then complained to the State Bar. OCTC sent letters to Rodriguez on June 8, 2017, and March 26 and June 5, 2018, regarding Rebelo's allegations. Rodriguez did not respond to OCTC. On September 10, 2019, Rodriguez remitted $2,362.96 to Rebelo for her to pay the Sutter Health lien.

B. Culpability:[2] Counts One and Two—Failure to Maintain Funds in CTA (Rules Prof. Conduct, rule 4-100(A))[3] and Misappropriation (Bus. & Prof. Code, § 6106)[4]

Rodriguez is charged in count two with misappropriating $2,426.85 in client funds in violation of section 6106. Section 6106 provides that the commission of an act involving moral turpitude constitutes cause for suspension or disbarment. Misappropriation occurs when an attorney fails to use entrusted funds for the purpose for which they were entrusted. (*Baca v. State Bar* (1990) 52 Cal.3d 294, 304.) Such acts may constitute moral turpitude. The hearing judge found Rodriguez intentionally misappropriated funds and found culpability under count two.

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[2] We have independently reviewed all of Rodriguez's culpability arguments. Any arguments not specifically addressed have been considered and rejected as without merit.

[3] All further references to rules are to the former California Rules of Professional Conduct that were in effect until November 1, 2018, unless otherwise noted.

[4] All further references to sections are to this source, unless otherwise noted.

When a CTA balance drops below the amount the attorney is required to hold for a client, a presumption of misappropriation arises. (See *Edwards v. State Bar* (1990) 52 Cal.3d 28, 37.) The burden then shifts to the attorney to show that misappropriation did not occur and the attorney was entitled to withdraw the funds. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618.) Here, Rodriguez agreed to hold $8,070 from the settlement to satisfy the Medicare and Sutter Health liens and then to pay Rebelo any remaining amount after the liens were settled. In 2016, Rodriguez paid $5,607.80 (the sum of $1,642.32 and $3,965.48) to Rebelo and $35.35 to Medicare. Therefore, $2,426.85 of the $8,070 remained. He was required to hold this money in his CTA, but by February 10, 2017, the CTA balance was $0.

Rodriguez asserts he paid Sutter Health by cashier's check in 2016. In support of this claim, he points to an $8,484.94 cash withdrawal from August 3, 2016, and claims this must have included the payment to Sutter Health. Rodriguez presented no documented proof of his claim.[5] He also posits the check was lost in the mail or at Sutter Health. He again offers no credible evidence to support this claim. Therefore, we reject his argument that he paid Sutter Health twice; the record supports the finding that Rodriguez made only one payment for Sutter Health in 2019, after he was aware of the disciplinary investigation. Rodriguez blames his failure to refute the misappropriation charge on a loss of records. He also attempts to put the burden on OCTC to provide contrary evidence to his claim that he paid by cashier's check. However, the burden is on Rodriguez to rebut the presumption of misappropriation and he failed

[5] In fact, the record shows Rodriguez wrote checks directly to other medical providers in 2016 from his CTA.

to do so. Therefore, we find clear and convincing evidence[6] Rodriguez committed moral turpitude by his act of misappropriation as charged in count two.

We do not adopt the hearing judge's finding that Rodriguez only misappropriated the $2,362.96 owed to Sutter and not the full $2,426.85 as charged in the NDC. The judge found the $63.89 difference could be attributed to negligent accounting. Rodriguez received $8,070 from the settlement to pay the liens, with any remainder to be disbursed to Rebelo. In 2016, he paid $35.35 to Medicare and $5,607.80 to Rebelo, leaving $2,426.85 that should have remained in his CTA. Thus the record shows Rodriguez misappropriated the entire $2,426.85.

Count one charged Rodriguez with violating rule 4-100(A) for failing to maintain in his CTA (1) $2,362.96 for the Sutter Health lien and (2) $63.89 for Rebelo. Rule 4-100(A) requires an attorney to hold client funds in a CTA and maintain the funds until the amount owed to the client is settled. (See *In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, 277–278.) As discussed above, Rodriguez was obligated to hold the remaining funds from the $8,070 he received from the settlement to satisfy the liens. After the lien payments were made, Rodriguez should have had $2,426.85 of the settlement funds in his CTA, but in February 2017 his CTA balance was $0. Therefore, he violated rule 4-100(A) as charged in count one. We assign no additional weight in discipline for count one as culpability is based on the same facts underlying count two. (See *In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127 [no additional disciplinary weight for rule 4-100(A) violation duplicative of moral turpitude violation].)

[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.)

IV. THE GALVEZ MATTER

A. Factual Background

Rodriguez initially represented Patricia Galvez in a marriage dissolution matter. The fee agreement did not include post-judgment representation, and the final judgment in the matter issued on June 29, 2016. In October, Galvez hired Rodriguez to enforce the judgment. On November 9, Rodriguez filed a request for a writ of execution to have the wages of Galvez's former husband garnished, and it was issued on the same day. On November 16, Rodriguez emailed Galvez to inform her that he had received the writ of execution back from the court and intended to process the wage garnishment. On the same day, we issued an order suspending Rodriguez, effective December 12, for his failure to pass the Multistate Professional Responsibility Examination as ordered by the Supreme Court in a prior discipline matter. On November 28, the San Francisco Sheriff's Office received the writ of execution for processing. On December 6, Rodriguez filed a notice of withdrawal as attorney of record and an application for name change on Galvez's behalf.

The writ of execution could not be served because Rodriguez had not checked the correct box on the form. On December 10, 2016, Rodriguez wrote to Galvez to explain what happened and advised her how to correct the form and file it herself. He told her she needed to proceed in propria persona and, if she needed further assistance, to seek advice from another attorney. The letter did not state that he had been suspended or that he had filed the notice of withdrawal on December 6. Galvez contacted Rodriguez requesting he file and serve the writ of execution. When he did not respond, she filed a bar complaint. The hearing judge found Galvez credibly testified that Rodriguez did not disclose his suspension to her at any time. In February 2017, Galvez filed the writ of execution herself. OCTC sent letters to Rodriguez on June 8, 2017, and March 26 and June 5, 2018, regarding Galvez's allegations. He did not respond.

B. Culpability:[7] Count Four—Failure to Inform Client of Significant Developments (§ 6068, subd. (m))

Count four alleges Rodriguez was notified on November 16, 2016, that he would be suspended from practice effective December 12, and that he failed to notify Galvez of the impending suspension. Section 6068, subdivision (m), provides it is the duty of an attorney to "respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services." The hearing judge found culpability as charged under count four and we agree. Rodriguez's impending suspension was a significant development as it necessitated his withdrawal from the case and resulted in his inability to complete the services for which he was hired.

On review, Rodriguez asserts he is not culpable due to mitigating circumstances, including his economic hardships, marital problems, and medical conditions. These circumstances may be mitigating, but they are not exculpating. Rodriguez also contends he completed his services to Galvez. When the first writ of execution was rejected, he drafted another writ of execution and provided it to Galvez to proceed in propria persona. He argues he was no longer her attorney of record and he could no longer assist her. We reject these arguments as the hearing judge did—the filing of the notice of withdrawal did not insulate him from his obligations to communicate, especially as Galvez was under the impression that Rodriguez was entitled to practice law and could further assist her. (*In the Matter of Taylor*

[7] Count three's allegations also involved Galvez, but the count was dismissed by the hearing judge. The parties do not dispute the dismissal. On our independent review of the record, we affirm the dismissal of count three with prejudice. (*In the Matter of Kroff* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838, 843 [dismissal of charges for want of proof after trial on merits is with prejudice].)

(Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 575 [failure to inform client of suspension violated § 6068, subd. (m), because it was significant development].)

V. THE MENDOZA MATTER

A. Factual Background

Silvia Mendoza hired Rodriguez to represent her and her two minor daughters in a personal injury claim related to a traffic collision. Mendoza is a native Spanish-speaker and does not read English, yet Rodriguez prepared documents for her to sign in English and did not have them translated. In 2014, Rodriguez filed *Flores, et al. v. Armstrong* in Stanislaus County Superior Court on behalf of Mendoza and her daughters.

In May 2014, Rodriguez submitted applications for Mendoza to serve as guardian ad litem (GAL) for her two minor daughters. Mendoza signed the application indicating that she consented to act as GAL, but Rodriguez did not advise Mendoza regarding the document she signed and her responsibilities as GAL. Superior Court Judge Timothy Salter approved the application and appointed Mendoza as GAL.

Flores, et al. v. Armstrong was settled in August 2016. Rodriguez received settlement checks resolving the claims, including $2,875 for each daughter. He deposited the checks. He did so without obtaining a minor's compromise or a court order regarding the distribution of the funds as required by law. Nonetheless, he met with Mendoza on September 22, and issued checks to her as GAL for her daughters ($1,607 for each daughter, reserving the remainder for medical expenses, costs, and attorney's fees). Mendoza's nephew translated for her during the meeting. Rodriguez did not give any special instructions regarding the funds and told Mendoza she could use the funds.[8]

[8] Rodriguez testified that when he disbursed the checks, he told Mendoza not to spend the money. The hearing judge found his testimony not credible as there was no reason to disburse the checks to Mendoza if she was unable to spend them.

The court set a hearing on the dismissal of *Flores, et al. v. Armstrong* for November 4, 2016. Neither party appeared. Rodriguez did not inform Mendoza of the hearing or that he did not appear. Judge Salter issued an order to show cause (OSC) why sanctions should not be imposed on Rodriguez for failing to file petitions for minors' compromises and set December 2 for an OSC hearing. Judge Salter testified that minors' compromises were required before the court could dismiss the action.

On November 16, 2016, Rodriguez attempted to file a Request for Dismissal using a Judicial Council form, but it was rejected for filing by the clerk because the wrong box was checked regarding fees. On November 21, Rodriguez filed expedited petitions for each minor to compromise their pending claims, using the mandatory Judicial Council form. The form provides for the *proposed* disposition of funds and makes requests for how the funds should be disbursed. On November 22, Rodriguez filed another Request for Dismissal, which was not entered by the clerk because the OSC remained pending.

Rodriguez appeared at the December 2, 2016 OSC hearing. Judge Salter did not approve the compromises and ordered Rodriguez to file amended petitions directing the funds be deposited into blocked accounts. During the hearing, Rodriguez did not advise Judge Salter that he had already released the funds to Mendoza in September. The OSC hearing was continued to January 13, 2017. Rodriguez did not advise the court he could not appear at the hearing due to his impending suspension.

On December 8, 2016, Rodriguez again filed expedited petitions to compromise the settlements with the same Judicial Council form providing for the proposed disposition of funds. He proposed placing the funds into blocked accounts. Also on December 8, Rodriguez had filed substitution of attorney forms, which were processed by the court clerk and substituted Mendoza in as the legal representative in the case. Mendoza signed the forms, but did not understand

them.[9] However, the forms provided notice that a GAL may not act as their own attorney. Judge Salter testified the substitution was improper, but he was unaware of it at the time. On December 16, Judge Salter signed orders approving the compromises requiring $1,607 for each minor to be placed into a blocked account.

Rodriguez did not appear at the January 13, 2017 OSC hearing. Mendoza appeared without counsel, not knowing why she was noticed for the hearing and believing Rodriguez had resolved everything. She attempted to phone Rodriguez but was unable to reach him. Judge Salter ordered Mendoza to provide proof that the funds had been placed into blocked accounts and continued the matter. Mendoza failed to appear at two further hearings until an OSC was issued for contempt. Mendoza appeared at a May 5 hearing and explained she thought Rodriguez had closed the case. She produced proof that Rodriguez disbursed the funds to her in September 2016.[10] After the hearing, Judge Salter filed a State Bar complaint against Rodriguez. OCTC sent letters to Rodriguez on June 7, 2017, and March 21, 2018, regarding the Mendoza matter. He did not respond.

[9] Rodriguez claimed he explained to Mendoza that she needed to substitute in because of his impending suspension. The hearing judge found Rodriguez's testimony was not credible.

[10] Judge Salter ordered Mendoza to open blocked accounts on behalf of her daughters and to make monthly deposits of $25 for each until the funds were fully replaced. Her eldest daughter appeared in court to testify she was not seeking interest from her mother. Mendoza continued making appearances in court to demonstrate compliance.

B. Culpability[11]

1. Count Five—Failure to Inform Client of Significant Developments (§ 6068, subd. (m))

Count five alleges Rodriguez failed to inform Mendoza of several significant developments: (1) she was required to open blocked accounts for the settlement proceeds of her minor daughters; (2) his failure to appear at the November 4, 2016 hearing and his failure to file the minors' compromises; and (3) his impending suspension that would take effect on December 12, 2016. The hearing judge found culpability based on Mendoza's credible testimony.[12] We agree. Mendoza testified Rodriguez never discussed the need for minors' compromises, her obligations as GAL, his failure to appear at the November 4 dismissal hearing, or his impending suspension.

On review, Rodriguez asserts he advised Mendoza the settlement amounts could be disbursed to her because they were under $5,000 but not to spend the funds until he "verified the circumstances." He further argues he did not believe minors' compromises were necessary, which is why he filed the requests for dismissal. He attempts to shift responsibility to Mendoza, stating the only order requiring the minors' compromises was issued on December 16, 2016, after he had been suspended and when Mendoza was in propria persona. In his brief, Rodriguez does not claim that he advised Mendoza he would be suspended, but that their relationship deteriorated when he advised her she would have to put the money into blocked accounts. He

[11] The hearing judge dismissed count six, which also involved the facts in the Mendoza matter. The parties do not dispute the dismissal. On our independent review of the record, we affirm the dismissal of count six with prejudice. (*In the Matter of Kroff*, *supra*, 3 Cal. State Bar Ct. Rptr. at p. 843.)

[12] Rodriguez takes issue with Mendoza's testimony, asserting she was coached. He disputes her account regarding the translation of their meetings. Nothing in the record supports overturning the hearing judge's credibility determination.

argues he did not need to inform Mendoza of the suspension because he withdrew as counsel and advised her to seek other counsel.

None of Rodriguez's arguments establishes a reason to disturb the hearing judge's culpability finding. In fact, his claims actually confirm culpability because if he did not believe that a minor's compromise was necessary, then he of course did not tell Mendoza that he failed to file one. In addition, he did not believe he was required to tell Mendoza about the impending suspension if he withdrew from the representation. As discussed above, the law requires otherwise. Mendoza credibly testified she was unaware of the need for a minor's compromise, the dismissal hearing, and Rodriguez's failure to appear. Therefore, we affirm the judge's culpability finding.

2. Count Seven—Failure to Perform with Competence (Rule 3-110(A))

Count seven alleges Rodriguez failed to perform with competence in the Mendoza matter in September 2016 by (1) failing to seek court approval of the minors' compromises, (2) failing to establish blocked accounts to receive the settlement funds for the minors, and (3) disbursing the funds to Mendoza without instructions to deposit the funds into blocked accounts.
Rule 3-110(A) provides an attorney "shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence." The hearing judge found culpability as charged.

On review, Rodriguez's culpability arguments under count seven center on his failure to seek court approval before disbursing the funds to Mendoza. The law requires court approval of the settlement of a minor's claim. (Code Civ. Proc., § 372; Prob. Code, § 2504.) In addition, the court is required to issue an order approving disbursement, regardless of the amount of the settlement. (Cal. Rules of Ct., rule 7.950; Prob. Code, §§ 3610 & 3611; see *Pearson v. Super. Ct.* (2012) 202 Cal.App.4th 1333, 1338 [court approval of minor's compromise protects minor's interests].) Rodriguez argues he acted properly because, in his 15 years of experience, when a

settlement is less than $5,000, the court orders disbursement to a GAL without the use of blocked accounts. This is no defense to his incompetence. Rodriguez was required to get court approval of the settlement. Even if he could have predicted the court's actions, he should not have acted before the court order. He acknowledges in his review brief that he "made an error and believed that a minor's compromise was not needed." Rodriguez also asserts that, when the court ordered the money into the blocked accounts, he complied by filing the amended petitions. This fact does not rectify his prior incompetence in failing to get court approval before acting. In addition, Rodriguez argues it was proper for him to give Mendoza the money due to his impending suspension. His suspension has no relevance to the fact that he gave Mendoza the settlement money months earlier without court approval. Accordingly, we affirm the hearing judge's culpability finding.

3. Counts Eight and Nine—Misrepresentation (§ 6106) and Seeking to Mislead a Judge (§ 6068, subd. (d))

The NDC alleges Rodriguez made misrepresentations to the court in the Mendoza matter: (1) in the November 21, 2016 petition, he requested permission to distribute the funds and (2) in the December 8, 2016 petition, he requested permission to deposit the funds in a bank account. When he filed the petitions, he had already disbursed the funds. An attorney's duty is to "never to seek to mislead the judge." (§ 6068, subd. (d).) Misleading a judge also constitutes an act involving moral turpitude under section 6106. (*Grove v. State Bar* (1965) 63 Cal.2d 312, 315.) The hearing judge found culpability under both counts eight and nine, but only assigned disciplinary weight for one count as the facts underlying both counts were the same. (*In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211, 221 [treat as single violation where misconduct underlying violations of §§ 6068, subd. (d) & 6106 are the same].) We agree. When Rodriguez filed the November 21 and December 8 petitions, he had already distributed the funds in September 2016. The petitions proposed a *future* distribution of funds.

Therefore, he knowingly and intentionally used the forms in order to conceal his misdeeds. "No distinction can . . . be drawn among concealment, half-truth, and false statement of fact." (*Grove v. State Bar*, *supra*, 63 Cal.2d at pp. 314-315.) Rodriguez's behavior is especially worrisome as he had an opportunity at the December 2, 2016 hearing to admit he had already disbursed the funds and did not do so. Instead, he filed the December 8 petition to attempt to cover up his wrongdoing again.

On review, Rodriguez argues the Judicial Council forms were an attestation of the settlements, not a statement regarding whether the funds had already been disbursed. He offers no support for this claim. A plain reading of the forms shows they propose a future disbursement. Therefore, we reject his argument. In addition, Rodriguez attributes any misconduct to his personal problems and his health condition, which he says may have clouded his judgment during the relevant time. Again, these facts may be mitigating, but they are not exculpatory.

VI. COURT REPORTING MATTERS

A. Factual Background

1. Peyton Judgment

On May 12, 2016, a small claims court issued judgment against Rodriguez for his failure to pay Dennis Peyton for court reporting services. After a year, Rodriguez had not paid, and Peyton filed a State Bar complaint. OCTC sent letters to Rodriguez on September 14, 2017, and March 26, 2018, regarding Peyton's allegations. Rodriguez did not respond. On October 17, 2019, Rodriguez paid Peyton $4,740.85, the amount Peyton originally billed for his services.

2. Bonanza Reporting

On April 22, 2016, Rodriguez contacted Bonanza Reporting and Video Conferencing Center (Bonanza) to arrange for a court reporter to take a deposition in Nevada. Bonanza

performed the services, provided Rodriguez with a copy of the transcript, and sent him an invoice for $532.90. Bonanza filed a State Bar complaint on February 1, 2018, after making numerous attempts to collect. OCTC sent letters to Rodriguez on March 26 and June 8, 2018, regarding Bonanza's allegations. He did not respond.

In September 2018, Rodriguez emailed Bonanza that he disputed the bill and Bonanza actually owed him. He told Bonanza to stop contacting him, but, on October 17, 2019, Rodriguez paid Bonanza $532.

B. Culpability

1. Count Ten—Failure to Maintain Respect to the Court (Bus. & Prof. Code, § 6068, subd. (b))

Count 10 involved a small claims judgment related to Rodriguez's failure to pay Peyton. The hearing judge dismissed it, which the parties do not dispute. However, in his review brief, Rodriguez discusses count 10. We agree with the judge that the dismissal of this count was appropriate and therefore do not find it necessary to further examine issues related to it. On our independent review of the record, we affirm the dismissal of count 10 with prejudice. (*In the Matter of Kroff*, *supra*, 3 Cal. State Bar Ct. Rptr. at p. 843.)

2. Count Eleven—Violation of Code of Civil Procedure section 2025.510, subdivisions (b) and (h) (Bus. & Prof. Code, § 6068, subd. (a))

Count 11 alleges Rodriguez failed to pay Bonanza for reporting services in violation of Code of Civil Procedure section 2025.510, subdivisions (b) and (h). Section 6068, subdivision (a), provides that an attorney has a duty to support the Constitution and laws of the United States and California. Code of Civil Procedure section 2025.510, subdivision (b), provides that the party who notices a deposition shall bear the cost of the transcription. Code of Civil Procedure section 2025.510, subdivision (h)(1), requires that the attorney requesting the deposition to "timely pay" the entity providing deposition services; subdivision (h)(2) provides that the

requirement is applicable "unless responsibility for the payment is otherwise provided by law." The hearing judge found Rodriguez violated California law when he failed to timely pay for court reporting services.

Rodriguez repeats his arguments from trial, which the hearing judge rejected. He interprets Code of Civil Procedure section 2025.510, subdivision (h)(2), as applicable and payment was not required by law. He argues it is relevant Bonanza did not file suit against him. We agree with the judge that (1) the law does not require Bonanza to file suit in order to collect and (2) no facts support Rodriguez's claim that he was not responsible for the payment. Rodriguez also believes Bonanza had "unclean hands" because it violated the law by harassing him in attempting to collect the amount owed. Rodriguez's version of events is not supported by the record. Instead, the record shows Rodriguez requested Bonanza's services, ignored Bonanza's attempts to contact him for almost two years, and failed to remit payment until more than a year after he was contacted by OCTC regarding Bonanza's claim. Rodriguez did not dispute the charge until over a year after Bonanza rendered services and he offered no explanation as to why he disputed the charge. He now claims he was indigent and could not pay Bonanza during the time he was suspended, but he never communicated this to Bonanza or attempted to set up a payment plan or comply with his obligation to pay for the services under the law. Therefore, we affirm the judge's culpability determination.

Rodriguez argues that disciplining him for a contract dispute is a violation of his rights under the United States and California constitutions and that he cannot be disciplined due to "litigation privilege." We reject these arguments as Rodriguez is not charged with violating a contract, but with violating Code of Civil Procedure section 2025.510. Further, Rodriguez did not raise a contract dispute with Bonanza; instead, he ignored Bonanza's attempts to collect and then, without any elaboration, asserted Bonanza owed him. He then remitted payment only after

he was aware of possible disciplinary charges. Rodriguez's failure to pay Bonanza was intentional, and not the product of a good faith, negligent mistake. Accordingly, this violation of law is an appropriate disciplinable offense. (*In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91, 110 [effect of § 6068, subd. (a) is to make a disciplinable offense when an attorney does not uphold the law unless violation is result of negligent, good faith mistake]; cf. *In the Matter of Respondent P* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631-632 [negligent, good faith mistake of law not disciplinable under § 6068, subd. (a)].)

VII. FAILURE TO COOPERATE IN STATE BAR INVESTIGATIONS

Count 12 alleges Rodriguez failed to respond to State Bar letters requesting responses to allegations of misconduct in the Rebelo, Galvez, Mendoza, Peyton, and Bonanza matters, in violation of section 6068, subdivision (i), which provides that an attorney has a duty to cooperate and participate in any disciplinary investigation pending against the attorney. The hearing judge found culpability as charged. A State Bar investigator credibly testified that he sent the investigation letters to Rodriguez's address of record, and none were returned as undeliverable.

On review, Rodriguez claims he "suffered from economic hardship, disease, had no office or telephone lines, and could not pay for his post office box at times." None of these explanations are a defense to culpability for his failure to cooperate. Rodriguez is required to update his membership records address. (Bus. & Prof. Code, §§ 6002.1, subd. (a)(1) & 6068, subd. (j).) If he no longer used his post office box, then he was required to list an updated address for communication with the State Bar. Rodriguez asserts the letters from OCTC "were more than likely lost in the mail," which we do not find credible. The record supports the hearing judge's finding. OCTC provided evidence that it sent 12 letters to Rodriguez regarding various allegations and none of the letters were returned. When Rodriguez did not respond to the

letters, he breached his duty to cooperate with the State Bar. (*Bach v. State Bar* (1991) 52 Cal.3d 1201, 1208.)

VIII. AGGRAVATION AND MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct[13] requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Rodriguez to meet the same burden to prove mitigation.

A. Aggravation

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

Rodriguez has one prior record of discipline. On June 16, 2015, the Supreme Court ordered Rodriguez suspended for one year, stayed; placed on probation for two years; and actually suspended for the first 60 days of probation. (Supreme Court No. S225434; State Bar Court No. 11-C-12129.) The disciplinary matter stemmed from a 2011 conviction for violating Penal Code section 273.5, subdivision (a) (inflicting corporal injury). Rodriguez received aggravation for causing physical harm to a victim and for his lack of insight. The hearing judge found Rodriguez blamed others and failed to take responsibility for his actions. He received mitigation for having no prior record of discipline.

In the instant matter, the hearing judge assigned moderate weight in aggravation as the conviction did not involve the practice of law and is not related to the 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].) Rodriguez admits he has a prior record of discipline and makes no specific argument regarding the weight of this aggravating circumstance. OCTC asserts Rodriguez's prior record should receive "serious

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

weight," citing *In the Matter of Amponsah* (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646, 653. We consider Rodriguez's prior record to be "serious," especially as he committed the present misconduct while on probation. (*In the Matter of Katz* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430, 438 [aggravation given greater weight when attorney committed misconduct while on probation].) However, no facts suggest that more than moderate weight should be applied in this instance.

2. Intentional Misconduct, Bad Faith, or Dishonesty (Std. 1.5(d))

The hearing judge assigned moderate weight in aggravation for Rodriguez's bad faith and dishonesty in the Galvez matter. Rodriguez knew he could no longer represent Galvez due to his impending suspension. Instead of telling her this, he misrepresented he was withdrawing for her benefit and had completed all of the services for which he was retained. On review, Rodriguez challenges this finding. We agree with the judge that Rodriguez intentionally misled Galvez regarding his impending suspension. Rodriguez insists he did not act in bad faith or was dishonest because he was not ordered to inform his clients of his impending suspension. He wrongly believes his withdrawal from the Galvez matter was sufficient and he did not have to tell her of the impending suspension. Rodriguez's arguments substantiate the judge's concern regarding future possible misconduct and we thus affirm the assignment of moderate aggravating weight under standard 1.5(d). (See *In re Naney* (1990) 51 Cal.3d 186, 195 [acts of dishonesty outside of charged misconduct considered aggravating].)

OCTC argues we should assign substantial aggravating weight for Rodriguez's bad faith and dishonesty because it shows the misconduct is likely to recur and Rodriguez is a "danger" as he has engaged in other acts of dishonesty. The aggravation assigned for Rodriguez's actions in the Galvez matter was properly weighed by the hearing judge as it accounts for Galvez's actions in one client matter and does not consider again other facts used to establish culpability.

3. Indifference (Std. 1.5(k))

Indifference toward rectification or atonement for the consequences of misconduct is an aggravating circumstance. While the law does not require false penitence, it does require an attorney to accept responsibility for wrongful acts and show some understanding of his culpability. (See *In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511.) The hearing judge found several instances of Rodriguez's failure to show insight into his misconduct or recognize his wrongdoing. She found this suggestive of an inability to rehabilitate his misconduct and assigned substantial weight in aggravation. (*In the Matter of Layton* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 366, 380 [ongoing failure to acknowledge wrongdoing instills concern that attorney may commit future misconduct].)

Rodriguez challenges this aggravating circumstance without providing specific argument as to why we should reject the hearing judge's finding. We find, however, the record amply supports the judge's conclusions. In the Bonanza matter, Rodriguez would not admit to any wrongdoing for failing to pay for the reporting services. Instead, he blamed Bonanza for sending "nasty" emails. In the Galvez matter, Rodriguez also attempted to shift blame to Galvez, describing her emails likewise as "nasty," where she simply insisted he complete the work she hired him to do. In the Mendoza matter, Rodriguez blamed Mendoza for his actions, asserting he stopped communicating because she was upset with him. In addition, Rodriguez refused to acknowledge any responsibility in failing to respond to OCTC's investigation letters. We affirm the judge's finding of substantial aggravation as Rodriguez has failed to show little, if any, understanding of his misconduct or accept responsibility.

4. Significant Harm to Client, Public, or Administration of Justice (Std. 1.5(j))

The hearing judge found Rodriguez's misconduct caused Mendoza significant harm when he substituted out of the case. The substitution was potentially improper as Mendoza was

representing her daughters and also serving as their GAL. Also, Rodriguez left the representation when an OSC hearing was pending and failed to explain to Mendoza the legal effect of the substitution as she was unaware that she was acting in propria persona. This caused Mendoza to fail to appear at further hearings and to face contempt proceedings. In fact, she believed Rodriguez had already resolved the case. The superior court judge then required Mendoza to make additional appearances and repay the funds that Rodriguez had advised her she could spend.

The hearing judge also found Rodriguez's actions in the Mendoza matter caused significant harm to the administration of justice. The superior court judge was required to hold numerous hearings and bring in Mendoza's daughter to testify regarding Rodriguez's actions, none of which would have been required if Rodriguez had properly filed the minors' compromises and truthfully informed Mendoza of the status of the case.

Rodriguez does not challenge these findings on review. Based on the significant harm to Mendoza and the administration of justice, we affirm the hearing judge's assignment of substantial aggravating weight under standard 1.5(j). (See *In the Matter of Reiss* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206, 217 [acts wasting judicial time and resources constitute significant harm].)

5. High Level of Vulnerability of the Victim (Std. 1.5 (n))

The hearing judge found Mendoza was a vulnerable victim because she was a native Spanish speaker and unsophisticated in legal matters. Rodriguez does not challenge this finding on review. Mendoza relied on Rodriguez to represent her best interests, yet he substituted out of the case without explaining the ramifications. Also, he did not translate the documents Mendoza signed. We agree Mendoza was a highly vulnerable victim and thus assign substantial weight in aggravation. (See *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, 959-960 [client with limited ability to speak or read English considered vulnerable].)

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

The hearing judge assigned moderate aggravation for Rodriguez's multiple acts of misconduct including two moral turpitude violations, failure to communicate, failing to perform with competence, failing to timely pay for court reporting services, and failing to cooperate in five State Bar investigations. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].) Rodriguez challenges this finding, but without providing support. OCTC requests we affirm the judge's finding. Based on the record, we affirm the assignment of moderate aggravation for Rodriguez's multiple acts of wrongdoing.

B. Mitigation

1. Extreme Emotional Difficulties and Physical and Mental Disabilities (Std. 1.6(d))

Standard 1.6(d) provides mitigation may be assigned for any extreme emotional difficulties or physical disabilities where (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 discussed Rodriguez's claims that he deserves mitigation for his divorces and other family issues including child support and custody, a medical condition that went untreated for a time, hypervigilance contributing to anxiety and depression, and financial setbacks. The judge found Rodriguez's personal descriptions of these conditions were only entitled to limited weight in mitigation as no evidence of a causal connection to the misconduct was established or that the issues have been resolved or alleviated. OCTC agrees with the judge's finding.

On review, Rodriguez recounts his difficult childhood and his work as a police officer, which involved trauma he believes caused hypervigilance. He states he was diagnosed with a brain tumor at age 46 and is suffering from serious medical conditions. He states he is responding

well to medication. In addition, he believes he should receive mitigation for his financial hardships and the loss of his records. He argues the hearing judge did not afford him sympathy or understanding based on these circumstances. However, he provides no basis to dispute the judge's rationale for applying limited weight. Rodriguez's lay testimony regarding emotional difficulties and medical conditions may establish some mitigation, but he is not entitled to more mitigating weight than the judge assigned. (See *In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47, 60 [some mitigation assigned to personal stress factors established by lay testimony].) While we recognize his problems and empathize with the difficulties they cause, we must consider public protection and Rodriguez's ability to follow professional standards. (See *Grove v. State Bar* (1967) 66 Cal.2d 680, 684-685.) For these reasons, we affirm the judge's finding of limited weight in mitigation under standard 1.6(d).[14]

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

Rodriguez may obtain mitigation for "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 Rodriguez's character evidence, which included eight letters from current and former clients, because the declarants did not represent a wide range of references and did not demonstrate awareness of the misconduct alleged in the NDC. OCTC does not challenge this finding. Rodriguez does not address the judge's finding; he notes only that he provided the declarations from clients who find him a "competent and excellent attorney." This does not overcome his failure to establish all of the requirements for mitigation under standard 1.6(f). Therefore, we

[14] Rodriguez also states he is disabled and asserts that he has "conditions that impeded his ability to practice law." We agree with the hearing judge that the ADA does not act as a defense to culpability. (See *In the Matter of Wolfgram* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 355, 362 [attorney qualifying for ADA protection may be required to enroll as inactive if unable to meet professional obligations].)

assign limited weight in mitigation for his character evidence. (*In re Aquino* (1989) 49 Cal.3d 1122, 1131 [testimony of witnesses unfamiliar with details of misconduct not given significant weight in mitigation]; *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387 [limited weight assigned for character evidence of three attorneys and three clients where not from wide range of references].)

3. Pro Bono Work

An attorney's pro bono work and community service can be a mitigating circumstance. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785.) The hearing judge assigned limited weight in mitigation for Rodriguez's pro bono work. We agree. Rodriguez provided some evidence of pro bono work, consisting of his own undetailed testimony and a copy of a domestic violence restraining order he completed on a pro bono basis. However, Rodriguez did not provide clear and convincing evidence showing the extent of his dedication and zeal brought to his pro bono work. (See *Rose v. State Bar* (1989) 49 Cal.3d 646, 667 [mitigation for legal abilities, dedication, and zeal in pro bono work].)

4. Remorse (Std. 1.6(g))

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." Rodriguez asserts that he is entitled to mitigation for remorse because, at trial, he expressed regret concerning his actions. This is insufficient to establish mitigation for remorse as this regret was not expressed until years after the misconduct. Therefore, we decline to assign mitigation under standard 1.6(g).

IX. 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.) Our disciplinary analysis begins with the standards. While they are guidelines for discipline and are not mandatory, we give them great weight to promote consistency. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) The Supreme Court has instructed us to follow the standards "whenever possible." (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) We also look to comparable case law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.)

In considering the applicable standards, we first determine which standard specifies the most severe sanction for the at-issue misconduct. (Std. 1.7(a) [most severe sanction shall be imposed where multiple sanctions apply].) Here, standard 2.11 is the most severe and provides for disbarment or actual suspension for an act of moral turpitude. Standard 2.11 also provides, "The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the practice of law." We agree with the judge that disbarment is appropriate under standard 2.11 for Rodriguez's misrepresentations to the court.[15] Specifically, in the Mendoza matter, Rodriguez misled the court when he filed petitions proposing the distribution of the settlement funds when he had already disbursed the funds. Rodriguez's actions caused actual harm to Mendoza and necessitated hearings, which impacted the administration of justice. This was not an isolated incident as he made the misrepresentations in two separate filings and was not forthright with the court when he appeared at a hearing regarding the funds. The misconduct was directly related to

[15] Standard 2.1 is also applicable to Rodriguez's misappropriation misconduct. However, we need not reach a decision as to whether disbarment under standard 2.1(a) or actual suspension under standard 2.1(b) is most appropriate because Rodriguez's other misconduct qualifies him for disbarment under standard 2.11. Standard 2.12(a) is also applicable for the misrepresentation in the Mendoza matter and calls for disbarment or actual suspension for a violation of section 6068, subdivision (d).

Rodriguez's law practice. We agree with the judge that the circumstances surrounding Rodriguez's misrepresentations to the court point to a discipline at the higher end of the range in the standard. (See std. 1.1 [recommendation at high or low end of standard must be explained].)

The hearing judge compared this matter to *In the Matter of Taylor*, *supra*, 1 Cal. State Bar Ct. Rptr. 563, a case resulting in disbarment that involved a wide range of misconduct like Rodriguez committed. Similar misconduct between these cases includes acts of moral turpitude, failure to perform with competence, failure to communicate with clients, and multiple failures to cooperate in State Bar investigations. Both Taylor and Rodriguez also engaged in additional misconduct unique to their cases. Considering Rodriguez's aggravation greatly outweighs his mitigation, including indifference and a prior discipline like that found against Taylor, we agree with the judge that the risk of future misconduct is great; therefore, a greater sanction is necessary to fulfill the primary purposes of discipline. (Std. 1.7(b) & (c).) Disbarment is therefore appropriate under the standards and case law for Rodriguez's misrepresentations to the court.

Even if we were to not rely on *Taylor* to recommend disbarment, we would nonetheless recommend it as appropriate here due to the quantum and severity of Rodriguez's misconduct. He committed two moral turpitude violations including misrepresentations to the court in the Mendoza matter and misappropriation in the Rebelo matter. His other misconduct in the Mendoza matter includes a failure to inform his client of several significant developments and a failure to perform with competence. Mendoza was a vulnerable client, and he did not take care to make sure she was properly informed of her case and her responsibilities, resulting in her having an OSC for contempt issued against her and repaying funds she believed she was entitled to use. In the Galvez matter, he failed to inform his client of his impending suspension. He violated statutory law by failing to pay for reporting services. He also repeatedly failed to

respond to investigatory letters from OCTC in all four matters where misconduct involving clients or a vendor was found. Six very serious aggravating circumstances are present, and Rodriguez's mitigation is limited and does not excuse his misconduct; his financial difficulties and health issues are not a justification to engage in dishonest activities, which Rodriguez did here. (*In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 522 [attorneys expected to cope with stresses].)

Finally, Rodriguez's serious misconduct as recounted above is all the more concerning due to his indifference, which suggests the possibility that he will commit future misconduct and is compounded by his indifference in his prior discipline. His defense in this matter shows he fails to appreciate the high duties owed by an attorney to a client. We have serious doubts the public could be protected if Rodriguez was not disbarred due to his array of serious misconduct in three client matters, his violation of law, and his failure to cooperate in the disciplinary proceedings. For these reasons, suspension would be inadequate and would endanger the public, the courts, and the profession. Therefore, disbarment is the only appropriate sanction we can recommend here.

X. RECOMMENDATIONS

We recommend Robert Daniel Rodriguez, State Bar Number 242396, be disbarred from the practice of law in California and his name be stricken from the roll of attorneys.

We also recommend Rodriguez make restitution to Theresa Rebelo, or to such other recipient as may be designated by the Office of Probation or the State Bar Court, in the amount of $63.89 plus 10 percent interest per year from August 12, 2016 (or reimburses the Client Security Fund, to the extent of any payment from the Fund to such payee, in accordance with Business and Professions Code section 6140.5). Reimbursement to the Fund is enforceable as a money judgment and may be collected by the State Bar through any means permitted by law.

Rodriguez must furnish satisfactory proof of restitution to the State Bar's Office of Probation in Los Angeles.

CALIFORNIA RULES OF COURT, RULE 9.20

We further recommend Robert Daniel Rodriguez 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.[16]

COSTS

We further recommend 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.

MONETARY SANCTIONS

We do not recommend the imposition of monetary sanctions in this matter, as this matter was commenced before April 1, 2020. (Rules Proc. of State Bar, rule 5.137(H).)

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[16] For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Rodriguez 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).)

XI. ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

The order that Robert Daniel Rodriguez be involuntarily enrolled as an inactive attorney of the State Bar pursuant to section 6007, subdivision (c)(4), effective April 30, 2021, will remain in effect pending consideration and decision of the Supreme Court on this recommendation.

McGILL, Acting P.J.

WE CONCUR:

HONN, J.

STOVITZ, J.*

* Retired Presiding Judge of the State Bar Court, serving as Review Judge Pro Tem by appointment of the California Supreme Court.