

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

ORDER

LD-2021-0008, In the Matter of Randy Godin, Esquire

On August 26, 2021, the Attorney Discipline Office (ADO) filed a certified copy of the March 4, 2020 order of the Supreme Court of California, suspending Attorney Randy Godin from the practice of law for two years, with the possibility of the second year being stayed if Attorney Godin complied with various probationary conditions and provided proof of his rehabilitation, fitness to practice, and present learning and ability in the law. The matter came before that court on a “stipulation re facts, conclusions of law and disposition.”

According to the court-approved stipulation, Attorney Godin committed multiple acts of misconduct in his handling of an estate, including “appearing for a party without authority, violating the [California] Probate Code, grossly negligently misappropriating estate funds, failing to maintain estate funds in trust, collecting an illegal fee, and grossly negligently making misrepresentations.” Among other acts, Attorney Godin filed a petition in court for final distribution of estate funds, even though he lacked the necessary authority or verification from the client for that filing; his petition stated that the probate court had granted authority to marshal assets, when the court had not granted such authority; and his petition contained several other false and misleading statements, resulting from gross negligence, concerning the procedural posture of the case and the status of the estate.

In accordance with the stipulation, the California disciplinary order determined that Attorney Godin violated the following provisions of the California Business and Professions Code, the California Probate Code, and the California Rules of Professional Conduct:

1. Section 6104 of the Business and Professions Code, which states that willfully and without authority appearing as attorney for a party to an action or proceeding constitutes a cause for suspension;
2. Section 1023 of the Probate Code, which defines the circumstances in which an attorney may verify a petition on a client’s behalf, and Section 6068(a) of the Business and Professions Code, which requires a lawyer to uphold the law of the state;
3. Section 6106 of the Business and Professions Code, which states that commission of any act involving moral turpitude constitutes a cause for suspension;

4. Former rule 4-100(A) of the Rules of Professional Conduct, which requires an attorney to maintain in trust all funds received or held for the benefit of a client; and
5. Former rule 4-200(A) of the Rules of Professional Conduct, which provides that an attorney shall not collect an illegal fee.

Despite the severity of that misconduct, the stipulation stated that disbarment was not appropriate because the misconduct “did not harm the administration of justice”; the court ultimately approved the petition for a final accounting of estate assets; Attorney Godin “did not intentionally misappropriate client funds”; “there is no evidence that [he] owes restitution”; he had no prior record of discipline; and he acknowledged wrongdoing by entering the stipulation.

The Supreme Court of California imposed a two-year suspension, but allowed for a possible stay of the second year’s suspension subject to the probationary terms and conditions set forth in the disciplinary order approving the stipulation.

When the ADO filed in this court a certified copy of the California disciplinary order, the ADO contended that the imposition by this court of substantially similar discipline is warranted and that a two-year suspension, “subject to confirmation by the California disciplinary office that [Attorney] Godin complied with the terms of the probation imposed by the California Supreme Court,” constitutes substantially similar discipline.

In accordance with Supreme Court Rule 37(12)(b), this court ordered Attorney Godin to inform the court if he contended that the imposition of identical or substantially similar discipline is unwarranted. Attorney Godin filed a response that proposed a two-year suspension on the same terms and conditions as imposed in California, with the suspension beginning on the date of his California suspension.

Rule 37(12)(d) provides for the imposition of reciprocal discipline by this court unless the respondent attorney or the ADO demonstrates, or the court finds, based upon the face of the record from which the discipline is predicated, that: (1) the procedure followed by the jurisdiction imposing discipline was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (2) the imposition of the same or substantially similar discipline by the court would result in grave injustice; or (3) the misconduct established warrants substantially different discipline in New Hampshire.

Having reviewed the order of the Supreme Court of California, this court concludes that none of those factors is present. It appears from the order that Attorney Godin participated fully in the California proceeding by entering into the stipulation and thereby waiving a hearing. Considering the nature and

extent of Attorney Godin's misconduct, the court does not find that the imposition of the same discipline would result in grave injustice or that his misconduct would warrant substantially different discipline in New Hampshire. The court further concludes that Attorney Godin's suspension from the practice of law in New Hampshire should not be deemed to have begun on the date of his suspension in California.

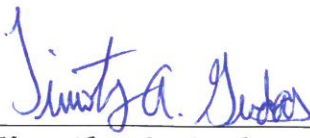
Accordingly, the court orders as follows:

- (1) Attorney Randy Godin is suspended from the practice of law in New Hampshire for a period of two years, with the possibility of the second year being stayed if Attorney Godin has complied with the probationary terms and conditions set forth in the order of the Supreme Court of California.
- (2) The suspension in New Hampshire shall take effect on November 30, 2021, unless a motion for reconsideration is filed, in which case a further order shall be issued.
- (3) After a period of one year, Attorney Godin may apply for reinstatement in accordance with Rule 37(14)(b), if he has complied with the requirements of the California disciplinary order and of this order.
- (4) Attorney Godin is ordered to reimburse the Attorney Discipline Office for all costs and expenses incurred by the attorney discipline system in this matter.
- (5) Attorney Godin is ordered to comply with the provisions of Supreme Court Rule 37(13). Within 30 days of this order, Attorney Godin shall file an affidavit attesting to his compliance with the requirements of Rule 37(13). A copy of the affidavit shall be sent to the Attorney Discipline Office.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

DATE: November 17, 2021

ATTEST:


Timothy A. Gudas, Clerk

Distribution:
Mark P. Cornell, Esquire
Randy Godin, Esquire
Professional Conduct Committee
File