

NO. 26049

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

FRANK D. WINSTON, Respondent.

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(ODC 04-110-8090)

ORDER OF DISBARMENT

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the Office of Disciplinary Counsel's ex parte petition for issuance of reciprocal discipline notice to Respondent Frank D. Winston pursuant to Rule 2.15(b) of the Rules of the Supreme Court of the State of Hawai'i ("RSCH"), the memorandum, affidavits, and exhibits thereto, Respondent Winston's lack of response to our November 1, 2004 notice and order, and the record, it appears that: (1) on March 12, 2004, the Supreme Court of California entered an order that accepted Respondent Winston's resignation from the State Bar of California with disciplinary charges pending; (2) such a resignation by an attorney in California is identical to an attorney's resignation in lieu of discipline in Hawai'i, see RSCH 2.14; (3) a resignation in lieu of discipline is a disbarment for all purposes under our disciplinary rules, including reinstatement, see RSCH 2.14(d); and (4) a similar discipline is warranted in this jurisdiction, pursuant to RSCH 2.15(c). See Office of Disciplinary Counsel v. Hurley, 71 Haw. 254, 787 P.2d 688 (1990). Therefore,

IT IS HEREBY ORDERED that Respondent Frank D. Winston is disbarred from the practice of law in the State of Hawai'i, pursuant to RSCH 2.15(c). Respondent Winston's disbarment shall be effective upon entry of this order.

IT IS FURTHER ORDERED that Respondent Winston's reinstatement shall be conditioned (1) upon payment of all costs of this proceeding, (2) compliance with the conditions imposed by the Supreme Court of California, and (3) Respondent Winston's reinstatement in California.

DATED: Honolulu, Hawai'i, December 20, 2004.