

NO. 27792

IN THE SUPREME COURT OF THE STATE OF HAWAII

OFFICE OF DISCIPLINARY COUNSEL, Petitioner

vs.

RYAN H. TOMASA, Respondent.

NORMA T. YARA
CLERK APPELLATE COURTS
STATE OF HAWAII

2006 MAR 24 AM 10:30

FILED

(ODC 05-078-8230)

ORDER OF SUSPENSION

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

Upon consideration of the Disciplinary Board of the Hawai'i Supreme Court's (Disciplinary Board) March 1, 2006 report and recommendation to suspend Respondent Ryan H. Tomasa (Respondent Tomasa) from the practice of law for one year and one day, and the record, we adopt Petitioner Office of Disciplinary Counsel (Petitioner ODC) and Respondent Tomasa's December 22, 2005 stipulation of uncontested facts, conclusions of law, aggravating factors, and proposed discipline, with the exception, however, that we adopt only the following three of the four listed mitigating factors: (1) Respondent Tomasa's personal or emotional problems; (2) Respondent Tomasa's cooperative attitude in the disciplinary proceedings; and (3) Respondent Tomasa's remorse for his misconduct. Petitioner ODC and Respondent Tomasa did not stipulate to the fourth factor in mitigation, i.e., an absence of a dishonest or selfish motive. We also impose an additional requirement that Respondent Tomasa must pay restitution to a client in the amount of \$2,500.00.

The record contains clear and convincing evidence that Respondent Tomasa failed to do the following:

- perform several legal services that he had promised to perform for a client;
- communicate with the client about the status of the legal services that Respondent Tomasa had promised to perform;
- provide the client with a written statement accounting for legal services that Respondent Tomasa billed in the amount of \$2,500.00;
- formally withdraw as the client's attorney when withdrawal was appropriate;
- inform the client that Respondent Tomasa was effectively withdrawing from the representation;
- inform the client that the client should obtain new counsel; and
- return the client's file.

Respondent Tomasa thereby violated Rules 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.15(f)(3), 1.15(f)(4), 1.16(a), 1.16(d), 3.2, and 8.4(a) of Hawai'i Rules of Professional Conduct (HRPC).

Aggravating factors include the following:

- a prior informal admonition in ODC 6682 for Respondent Tomasa's violations of HRPC Rule 8.4(a) and HRPC Rule 8.4(c);
- Respondent Tomasa's commission of multiple offenses;
- the vulnerability of the victims of Respondent Tomasa's misconduct; and
- Respondent Tomasa's substantial experience in the practice of law.

In light of Respondent Tomasa's ethics violations, as well as the aggravating and mitigating factors, we adopt the Disciplinary Board's report and recommendation to suspend Respondent Tomasa

from the practice of law for a period of one year and one day.
Therefore,

IT IS HEREBY ORDERED that Respondent Ryan H. Tomasa (attorney number 6006) is suspended from the practice of law in this jurisdiction for a period of one (1) year and one (1) day, effective thirty (30) days after entry of this order, as provided by Rule 2.16(c) of the Rules of the Supreme Court of the State of Hawai'i (RSCH).

IT IS FURTHER ORDERED that, before Respondent Tomasa may apply for reinstatement, Respondent Tomasa must, in addition to all other requirements for reinstatement in RSCH Rule 2.17, (1) successfully complete, at his own expense, the Practicing Attorneys Liability Management Society's practice management/law office audit program, (2) reimburse the Disciplinary Board for the costs associated with these disciplinary proceedings, and (3) pay restitution in the amount of \$2,500.00 to Paul W. Petschow and Pamela Rivera in their capacities as the personal representatives of Henry M. Takaki's estate and as the trustees of the revocable living trust of Henry M. Takaki.

DATED: Honolulu, Hawai'i, March 24, 2006.

