

Electronically Filed
Supreme Court
SCAD-13-0006297
27-SEP-2018
09:18 AM

SCAD-13-0006297

IN THE SUPREME COURT OF THE STATE OF HAWAII

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

vs.

ANDREW A. AGARD,
Respondent.

ORIGINAL PROCEEDING
(ODC 13-063-9133)

ORDER OF SUSPENSION

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of the May 2, 2018 Report and Recommendation of the Disciplinary Board of the Supreme Court of the State of Hawai'i, recommending this court, *inter alia*, disbar Respondent Andrew A. Agard, and upon review of the record and the briefs submitted in this matter, this court reaches the following Findings of Fact and Conclusions of Law, based upon clear and convincing evidence. We find Respondent Agard was convicted of intentionally and knowingly filing a U.S. individual income tax return for the calendar year 2006 that was false as to a material matter and which reported total gross receipts in the amount of \$294,162.00, whereas Respondent Agard knew well and believed his total gross receipts were substantially in excess of \$600,000.00 for that period, and that he engaged in conduct which involved deceit and dishonesty and which reflects adversely on his honesty

and trustworthiness as an attorney, in violation of Rules 8.4(b) and 8.4(c) of the Hawai'i Rules of Professional Conduct (1994). We find, in aggravation, that Respondent Agard demonstrated a dishonest and selfish motive and engaged in illegal conduct. In mitigation, we find Agard had a clean disciplinary record prior to his conviction, cooperated with the disciplinary proceedings, has had other penalties imposed upon him for his misconduct, and demonstrated remorse and rehabilitation, including through making full restitution and performing post-conviction volunteer work separate and distinct from the community service work ordered by the court. Therefore,

IT IS HEREBY ORDERED that Respondent Agard is suspended for a period of four years, *nunc pro tunc* to February 25, 2014, the date of his suspension from the practice of law. Respondent Agard, pursuant to Rule 2.16(d) of the Rules of the Supreme Court of the State of Hawai'i (RSCH), shall file with this court, within 10 after the entry date of this order, proof of compliance with the requirements of RSCH Rule 2.16.

IT IS FINALLY ORDERED that Respondent Agard shall pay all costs of these proceedings as approved upon the timely submission of a bill of costs by the Office of Disciplinary Counsel, as prescribed by Rule 2.3(c) of the Rules of the Supreme Court of the State of Hawai'i.

DATED: Honolulu, Hawai'i, September 27, 2018.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

