STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of	)	Case No. SBC-19-O-30564-MC
	)	
STEELE LANPHIER,	)	DECISION
	)	
State Bar No. 146163.	)	
	)	

Introduction

Steele Lanphier is charged with five ethical violations, including the failure to perform legal services with competence. Finding Lanphier culpable of all charges, the court recommends that he be suspended from the practice of law for two years, execution stayed, and placed on probation for two years with conditions, including a six-month actual suspension.

Procedural History

The Office of Chief Trial Counsel of the State Bar (OCTC) filed the Notice of Disciplinary Charges (NDC) on October 16, 2019, and Lanphier filed a timely response. The parties filed a stipulation as to facts and trial was held on February 7 and 10, 2020. The parties filed closing argument briefs and the matter was submitted for decision on February 24.

Jurisdiction

Lanphier was admitted to the practice of law on June 12, 1990, and has since been a licensed attorney of the State Bar of California.

Findings of Fact and Conclusions of Law

Background of Lanphier Firm

Lanphier is the sole owner of Lanphier and Associates (Lanphier firm). Prior to 2016, the Lanphier firm focused on personal injury and bankruptcy cases. Julius Engel, an immigration attorney with his own firm, shared office space with Lanphier. Engel was suspended from the practice of law for six months, starting on July 8, 2016. During his suspension, Engel was an employee of the Lanphier firm. After reviewing the State Bar ethics rules, Lanphier limited Engel to administrative work. Lanphier did not inform the State Bar of Engel's employment because he did not know that notification was required.

During the relevant time, Lanphier also employed Engel's son, David Engel (David), who was newly admitted to the State Bar. Lanphier regularly spoke with David since he was a new attorney, but he did not train or accompany him to court appearances.

Kwun's Employment with Lanphier Firm

Attorney Richard Kwun was employed by the Lanphier firm from February to November 2013 and worked on bankruptcy matters. Lanphier had concerns about Kwun's work during this time. Lanphier believed Kwun was arrogant and received many client complaints about him. Keegan Brown, a legal assistant at the firm, testified that in 2013, Kwun was the "worst attorney" and corroborated that clients complained about him. It is unclear if Kwun's employment ended because he was terminated or he quit without notice.

Despite Kwun's negative employment history, Lanphier again employed him from April 2016 to November 2017. The firm had an overwhelming caseload and Lanphier rehired Kwun to work on bankruptcy matters, an area in which he considered Kwun "extremely competent."

A few months after Kwun was rehired, the firm's bankruptcy cases dwindled and the focus shifted to immigration law for the first time. Lanphier and Kwun had never practiced

immigration law. They "tried to learn and come up to speed." As Kwun's experience in this area was "little to none," he engaged in self-study by reviewing books and audio tapes. Ultimately, about one-third of Kwun's caseload at the firm was immigration related. Two cases that he handled are the basis of the NDC and will be discussed below.

The office policy required Kwun to maintain case notes in the firm's database. Kwun complied with the policy only "sometimes." Other times he kept notes in client files, on his phone, in emails, or relied on staff to input notes in the database. Lanphier was aware that Kwun did not regularly maintain case notes as required and admonished him repeatedly. More than once, Brown witnessed Lanphier remind Kwun to input notes in the database. Other than these reproaches, there is no evidence that Lanphier took any corrective action.

Lanphier acknowledges that cases handled by the Lanphier firm are the firm's responsibility. Yet, he lacked formal protocols to monitor or review Kwun's work. Lanphier maintained an "open door policy," but the onus was on Kwun to raise any issues. As Lanphier admits, Kwun resisted efforts to be supervised. Lanphier would only review Kwun's work if there was a client complaint or "things [were] not going right" in a case.

As in 2013, the firm "often" received client complaints about Kwun. On a few occasions, Lanphier discussed these grievances with Kwun. In November 2017, Kwun abruptly left the firm, without notice, after a disagreement with another employee. Lanphier then learned that Kwun had failed to appear on some cases and had missed deadlines.

Lanphier's Contradictory Testimony

There are key discrepancies between Lanphier's testimony at the start of the disciplinary trial and his testimony after his employees and Kwun testified. Initially, Lanphier detailed why he hired Kwun in 2016, stating that he had seen Kwun practice in bankruptcy court and that Engel recommended him. But Lanphier made no mention of having employed Kwun in 2013.

He also testified that he did not know until Kwun left the firm that Kwun failed to input notes in the database. But after Kwun and the firm's employees testified otherwise, Lanphier admitted he was aware of this problem well before Kwun's departure. Further, Lanphier first asserted that client complaints began only after Kwun left in 2017. This was flatly denied by his employees and himself later in trial. These troubling inconsistencies undermine Lanphier's credibility.

Kwun's Handling of Immigration Cases

Before he left the Lanphier firm, Kwun appeared before Immigration Court Judge Rebecca Jamil, now retired, many times. Judge Jamil had "grave concerns" about Kwun which were shared by other judges. It was clear that Kwun had no familiarity with immigration law, and his understanding did not improve over time. He had little respect for his clients or the court. Kwun's failure to follow orders and appear for hearings created a backlog for the court which already maintained an overwhelming docket. These delays could easily create reverberations for the Immigration Court nationwide. While most people only appeared for master calendar once or twice, Kwun's clients had to appear repeatedly because of his poor representation. Judge Jamil was concerned that Lanphier was not properly supervising Kwun.

Gomez Matter

Facts

On September 2, 2016, Herber Gomez hired the Lanphier firm to represent him in removal proceedings in Immigration Court. Gomez entered into a written fee agreement, which Kwun signed as lead counsel. Gomez was charged a flat fee of $6,000. Initially, he paid $2,000 and agreed to pay the remainder in monthly installments. From September 2016 through September 2017, Gomez made at least eleven $300 payments to the Lanphier firm.[1]

[1] Gomez credibly testified that he paid a total of $5,600 which is consistent with his January 15, 2019 letter to the firm. (Ex. 25.)

On September 13, 2016, Kwun filed an appearance in Immigration Court, stating he was Gomez's primary attorney of record. Later, Lanphier designated himself as a non-primary attorney, allowing him to make appearances but unable to file documents in the case.

On October 15, 2016, Gomez signed an asylum application prepared by Kwun. Kwun did not file it, however, until nearly three months later. On January 5, 2017, Kwun submitted an asylum application to the United States Citizenship and Immigration Services (USCIS), which lacked jurisdiction. Notably, Kwun made this same error months earlier in the Ordonez case, discussed below. Kwun failed to file the application with the Immigration Court as required.

On September 14, 2017, Judge Jamil held a hearing on the removal proceedings. Kwun appeared with Gomez. Judge Jamil pointedly recalled this hearing because Kwun attempted to change the plea, causing Gomez to admit that he had entered the United States illegally and could be removed from the country. This admission was significant with far reaching consequences that would be difficult to undo.

When Judge Jamil inquired if Kwun had read the Notice to Appear, he stated he had looked at a "typical" notice but had not reviewed the notice specific to Gomez. Alarmed, the judge informed Kwun that there was no such thing as a typical notice – each one had specific charges. It was evident to her that Kwun had not consulted with his client. Judge Jamil ordered Kwun to file an asylum application by October 16, 2017. She also ordered Kwun to file a written pleading to the Notice to Appear, accompanied by a certificate stating that Kwun had personally reviewed the notice with Gomez using a Spanish interpreter. An order to provide a written pleading with an interpreter's certificate is unusual in Immigration Court but Judge Jamil required it under the troubling situation.

Kwun did not file the asylum application or the pleading with the certificate of translation by the October 16, 2017 deadline. Kwun blamed the failure to meet the deadline on the client, a specious assertion as the asylum application was completed and signed by Gomez a year earlier.

Kwun filed an untimely asylum application on October 24, 2017, but the Immigration Court rejected it as Kwun submitted an outdated version of the application. On October 30, the Immigration Court rejected another filing because it was not properly signed. Both of the court's rejection notices were sent to the firm but, as Lanphier did not have a policy requiring staff to inform him of such correspondence, he was unaware of the issues in the Gomez matter. Lanphier does not recall discussing the case with Kwun at any time.

When Kwun ceased working for the Lanphier firm in November 2017, he had not successfully filed an asylum application on Gomez's behalf. On November 30, the Immigration Court sent the firm an order denying a motion for telephonic appearance and stating that the asylum application and the written pleading had not been received. The order was addressed to the firm and Kwun. As Kwun had left, under office procedure, this communication would have gone to Lanphier, the most senior attorney at the firm.

On December 18, 2017, Lanphier attempted to file a motion to substitute as counsel. The Immigration Court rejected the motion because Kwun was still primary counsel of record. The court's rejection notice stated: "Counsel, when filing a Motion to Substitute Counsel you need to attach a form EOIR-28 with the Motion." (Ex. 16.) The Executive Office for Immigration Review (EOIR) is the Department of Justice agency which oversees the Immigration Court. Lanphier did not file the EOIR form. Instead, he inexplicably waited for Kwun to file a withdrawal of counsel notice though Kwun had left the firm. Judge Jamil testified that, without Kwun's participation, Lanphier could have simply filed a proper motion to substitute. This process is explained in the Immigration Court's practice manual.

On December 21, 2017, Lanphier once more attempted to file Gomez's asylum application, but it was rejected because Kwun was listed as primary counsel. The court notice again stated Lanphier would have to "either file a motion to substitute or annotate [the] Form EOIR-28." (Ex. 17.) On December 27, Lanphier attempted to file a Notice of Entry of Appearance, but it too was defective and rejected. On February 26, 2018, Lanphier submitted the asylum application to the EOIR, which deemed it "untimely."

On March 14, 2018, Lanphier filed a motion for telephonic appearance for a hearing with the Immigration Court the following day. The court again rejected the filing because Kwun was still primary counsel of record and Lanphier had not properly substituted in. On March 15, Lanphier did not appear in Immigration Court despite being ordered to do so. No other attorney from the firm appeared.

On May 3, 2018, Gomez called the Lanphier firm and requested a refund. Office notes indicate that the firm told Gomez it would prepare an accounting. (Ex. 1002.) Gomez also sent a letter on January 15, 2019, requesting reimbursement. Lanphier asserts that the firm earned all of the fees in the case as it was a flat fee for representation. Nevertheless, he concedes that "asking for asylum was a significant portion of the work and it had not been done successfully by my firm." Gomez never received a refund or an accounting. Gomez also did not receive a work permit, though he did get one shortly after the firm was terminated.

Conclusions

Count One – Failure to Perform Legal Services with Competence

Former rule 3-110(A) of the State Bar Rules of Professional Conduct[2] provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence. The requirements under the rule "include the duty to supervise the work of

[2] All further references to rules are to this source, revised on November 1, 2018.

subordinate attorney and non-attorney employees or agents. [Citations.]" (Official Discussion, former rule 3-110(A).) When an attorney knows of concerns and does not take action, "such gross neglect may be disciplinable as a failure to perform services competently." (*In the Matter of Hindin* (Review Dept.1997) 3 Cal. State Bar Ct. Rptr. 657, 682.)

Lanphier willfully violated former rule 3-110(A) when he did not adequately supervise Kwun, leading to grave deficiencies in the handling of Gomez's case. As the employer, the burden was on Lanphier to regularly review Kwun's work and he failed to do so. As Kwun resisted monitoring, Lanphier knew that he would not ask for assistance. Given Kwun's history of client grievances and failure to abide by basic office procedures such as notetaking, Lanphier should have been proactive in his supervision.

Lanphier counters that he did not violate the rule because he maintained office policies and procedures to comply with his ethical obligations; Kwun was an experienced attorney; and Kwun concealed his malfeasance. The court rejects these claims. First, the office policy requiring transcribing notes in the database was in name only. Lanphier knew that Kwun repeatedly failed to comply with the policy. Notetaking was particularly important since Kwun was unfamiliar with immigration law. Other than speaking to Kwun a few times, Lanphier did not take measures to ensure conformity to the firm's policies. Lanphier also did not have a policy in place during this time requiring staff to inform him of deficiency notices by the court. This blinded him to critical shortcomings in his firm's cases.

Next, while Kwun may have been an experienced bankruptcy attorney, he utterly lacked knowledge of immigration law. Lanphier too had no experience in this area. This only highlights the need for the Lanphier firm to proceed carefully with these cases, including proper oversight of associates. "While an attorney cannot be held responsible for every event which takes place in his or her office, he or she does have a duty to reasonably supervise staff, both by

taking steps to guide employees and by reviewing client files to determine whether staff work has been appropriate. [Citation.]" (*In the Matter of Phillips* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315, 336.)[3]

Finally, the court rejects Lanphier's spurious assertion that he was unaware of Kwun's misdeeds as they were hidden. Lanphier had full knowledge that Kwun frequently drew client complaints in 2013 and again in 2016. Lanphier knew that Kwun was not following office policy. Kwun's failures were in plain sight but Lanphier took no remedial steps. (*Bernstein v. State* Bar (1990) 50 Cal.3d 221, 231 [principal lawyer violated ethical obligation to supervise attorney when he knew of attorney's work difficulties].) Notably, despite all the shortcomings, Lanphier did not terminate Kwun.

After Kwun left, Lanphier had his own missteps in the Gomez matter. He repeatedly failed to substitute into the case, leading to the rejection of forms and applications in Immigration Court. Multiple times, the court offered Lanphier specific guidance, yet he unnecessarily waited for Kwun to substitute out. For these many reasons, the court finds Lanphier culpable of willfully violating former rule 3-110(A).

Count Two - Failure to Return Unearned Fees

Former rule 3-700(D)(2) requires an attorney, upon termination of employment, to promptly refund any part of a fee paid in advance that has not been earned. Gomez paid the Lanphier firm $5,600 to represent him in removal proceedings before the Immigration Court. As Lanphier accepts, a significant portion of the representation was seeking asylum for Gomez, yet no asylum application was ever filed. As of March 18, 2018, when the firm was terminated from

---

[3] Lanphier contends that the former Rules of Professional Conduct were silent on the duty to supervise. However, he acknowledges that case law has interpreted former rule 3-110(A) as encompassing the duty to oversee other attorneys in certain circumstances. (See, e.g., *Bernstein v. State Bar* (1990) 50 Cal.3d 221, 231-232; *Moore v. State Bar* (1964) 62 Cal.2d 74, 81.) Those circumstances are present here.

the case, it had provided no legal services of value to Gomez. (*In the Matter of Phillips*, *supra*, 4 Cal. State Bar Ct. Rptr. at p. 324 [violation of rule 3-700(D)(2) for failure to perform any services of value].) Lanphier failed to promptly refund any fees to Gomez upon his termination, and even upon the client's request. Lanphier is culpable of willfully violating former rule 3-700(D)(2).

Count Three – Failure to Maintain Records /Render Appropriate Accounts

Former rule 4-100(B)(3) provides that an attorney must maintain records of all client funds, securities, and other properties coming into the attorney's possession and render appropriate accounts to the client regarding such property. Lanphier grants that he never provided an accounting of the $5,600 that Gomez paid the firm. He was required to account for work performed even under a flat-fee arrangement. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 188-189 [attorney violated rule 4-100(B)(3) by failing to provide client with accounting for $1,000 flat fee paid to modify child visitation order].) That he was unaware of this requirement not absolve his culpability. The court finds Lanphier culpable of willfully violating former rule 4-100(B)(3).

Ordonez Matter

Facts

In August 2015, Carlos Ordonez hired Engel to represent him in removal proceedings in Immigration Court. When Engel was suspended from the practice of law in July 2016, the Lanphier firm assumed responsibility for the case. Kwun was lead counsel and he prepared an asylum application containing errors, including listing Engel's firm for the mail and email addresses. Ordonez signed the application and on July 13, 2016, Kwun mailed it to USCIS, which lacked jurisdiction.

On December 7, 2016, Kwun filed a request to appear telephonically in Immigration Court in the Ordonez case. Judge Dana Marks denied Kwun's request because of his "previous poor communication" with his client. (Ex. 37.) The court required an in-person appearance to "assure preparedness" by Kwun. (*Ibid.*) Lanphier never saw the court's order.

After Kwun left the firm in November 2017, David Engel took over the case. On April 16, 2018, David – a "very new attorney" – filed an untimely motion to recuse Judge Marks on the grounds that she had a bias against counsel. On April 23, David filed an untimely request to appear telephonically at the recusal motion hearing set for the following day. The court granted the request but David failed to appear. The court called the firm, and as David was not available, Lanphier took the call. Lanphier did not know the status of the case, but he was aware that both Kwun and David felt that Judge Marks was "less than neutral." (Exs. 51, 52.)

Judge Marks asked Ordonez, who was present in court, if he knew about the recusal motion and he did not. Judge Marks admonished the Lanphier firm for repeatedly failing to communicate with Ordonez and cited problems in his case that were "attributable to the low quality of legal services that he [was] being provided." (Exs. 51, 52.) Judge Marks criticized not only Kwun, but the entire firm.

Sara Izadpanah was the pro bono attorney of the day in Immigration Court during the recusal hearing. Ordonez approached her for assistance when no one from the Lanphier firm appeared. Judge Marks informed Izadpanah that Ordonez had appeared multiple times without counsel. Izadpanah was surprised by the motion to recuse Judge Marks as most people appearing in Immigration Court "love Marks and kill to be before her" because her rulings are often favorable to them.

On May 4, 2018, Lanphier filed a substitution of attorney form to replace David as primary counsel. The court denied the request as Lanphier did not file a Form EOIR-28 Notice of Appearance. This was the same omission he made in the Gomez case months earlier.

In June 2018, Ordonez hired Izadpanah to represent him. Prior to this, no filings had been completed in the case. While Kwun had prepared an asylum application, he never properly filed it with the Immigration Court. Izadpanah credibly testified that the prejudice to Ordonez's case was "extreme." Asylum applications are required to be filed within one year of entry into the country, which Ordonez had missed prior to hiring the Lanphier firm. But he was still required to file the application within a "reasonable time." A delay of nearly two years, while the Lanphier firm handled the case, was not reasonable. The failure to file the asylum application also further delayed Ordonez's ability to obtain a work permit.

Conclusions

Count Four - Failure to Perform Legal Services with Competence

Lanphier willfully violated former rule 3-110(A) when he, as the employer, did not adequately supervise Kwun in the Ordonez matter. Kwun's failure to properly file the asylum application with the right agency, a basic step in any legal representation, led to preventable delays in Ordonez pursuing asylum and his ability to work lawfully.

After Kwun left, Lanphier should have reviewed Ordonez's file. (*In the Matter of Whitehead* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354, 368 [duty of reasonable attorney supervision involves reviewing client file after associate departs].) This would have revealed that the asylum application was not filed. Instead of taking antidotal steps, Lanphier ceded responsibility of the case to David, a wholly inexperienced attorney. David filed an untimely motion to recuse Judge Marks, an act with no apparent benefit to Ordonez. David then failed to appear at the recusal hearing, leading the judge to criticize the Lanphier firm's shoddy

representation of Ordonez. Lanphier contends that he was unaware of David's filing, but this only underscores his reckless lack of oversight. (See *Gadda v. State Bar* (1990) 50 Cal.3d 344, 353 [violation of former rule 3-110(A) by assigning new attorney legal task that attorney unqualified to handle and no supervision given].)

Finally, Lanphier failed to substitute into the case properly, despite committing this same mistake just months earlier in the Gomez matter. Lanphier's willful violation of former rule 3-110(A) in the Ordonez case is established by clear and convincing evidence.

Employment of Engel

As stated above, Lanphier employed Engel while Engel was suspended from the practice of law. But, as Lanphier stipulates, he failed to notify the State Bar of the employment.

Count Five - Failure to Notify State Bar of Employment

Former rule 1-311(D) provides that an attorney, on employing a disbarred, suspended, resigned, or involuntary inactive lawyer, must give the State Bar and clients written notice of the employment and the employee's status. Lanphier's lack of knowledge of the rule does not excuse his failure to notify the State Bar. (*In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 937.) Lanphier is culpable of willfully violating former rule 1-311(D).

Aggravation

OCTC bears the burden of proving aggravating circumstances by clear and convincing evidence. (Std. 1.5)[4] The court finds five aggravating factors here.

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

Lanphier has one prior discipline. In a February 6, 2014 order, the Supreme Court suspended Lanphier from the practice of law for one year, execution stayed, and placed him on probation for two years subject to conditions, including a 90-day actual suspension. From

[4] All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

September 2011 through February 2012, Lanphier misused his client trust account as an operating account, in willful violation of former rule 4-100(A). Lanphier's wrongdoing was aggravated by his indifference and multiple acts of misconduct, but tempered by 10 years of discipline-free practice, lack of client harm, good character and cooperation.

The court affords moderate weight to Lanphier's discipline record. While the misconduct is dissimilar to the current wrongdoing, he was disciplined a little over two years before the instant problems began. He had the opportunity to heed the import of complying with his ethical obligations. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619 ["part of the rationale for considering prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney's inability to conform his or her conduct to ethical norms"].)

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

In two client matters, Lanphier failed to perform with competence, return unearned fees, and render an accounting. He was also remiss in notifying the State Bar about his employment of a suspended attorney. The weight of his multiple acts of misconduct is moderate.

Significant Harm (Std. 1.5(j).)

Lanphier's transgressions caused significant harm to the administration of justice. Judge Jamil testified that the Lanphier firm's misdeeds "absolutely" affected the Immigration Court. Lanphier and his associates repeatedly defied court orders and failed to attend hearings, causing the court to recall the Gomez and Ordonez cases repeatedly. The calendar slots reserved for the firm's clients could have been filled with other individuals, especially when the court had a bulging docket. The aggravating weight of this harm is substantial.

Indifference Toward Rectification/Atonement of Misconduct (Std. 1.5(k).)

Lanphier had an ethical obligation to review Kwun's cases, especially as Kwun lacked immigration law experience. Lanphier was reluctant to recognize the seriousness of his

misconduct. Regarding his failure to supervise, Lanphier claimed that he "acted ethically at all times" and insisted that it was up to Kwun to approach him with problems. His claim that "I don't know how much more I could have done," emphasizes Lanphier's avoidance of responsibility. Such behavior evinces an "apparent lack of insight into the wrongfulness of his actions" (*Sodikoff v. State Bar* (1975) 14 Cal.3d 422, 432), and indicates a substantial likelihood that Lanphier would continue to engage in misconduct (*In the Matter of Layton* (Review Dept.1993) 2 Cal. State Bar Ct. Rptr. 366, 380 [lack of insight causes concern attorney will repeat misconduct]). The court, noting that Lanphier's prior discipline also included this factor, affords substantial weight in aggravation here.

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

Judge Jamil described immigration matters as "life and death cases." Gomez and Ordonez, both seeking asylum, were undoubtedly vulnerable clients. Their asylum applications were markedly delayed by the Lanphier firm's failures, including not filing paperwork with the right agency. Without a properly filed asylum application, they were unable to obtain work permits. There can be no greater harm than endangering a person's ability to live safely and work freely. The vulnerability of Gomez and Ordonez is a substantial aggravating factor.

Mitigation

Lanphier bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds two mitigating factors.

Cooperation (Std. 1.6(e).)

Lanphier entered into a pretrial stipulation, stipulating to facts and acknowledging that he failed to notify the State Bar about employment of Engel in 2016. By entering into a stipulation, Lanphier has accepted some responsibility and saved OCTC time and resources. But he is afforded moderate mitigating weight because he only admitted culpability to a single, readily

provable count. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation for attorney who admits culpability and facts].)

Good Character (Std. 1.6(f).)

Two of Lanphier's employees of over 10 years offered character testimony and supporting letters. They described him as a good attorney who routinely gives "his time away for free" to clients by failing to bill for tasks. Lanphier also provided letters from two attorneys and three clients. The attorneys described Lanphier as "one of the good guys" who treats parties "kindly and courteously." One of his "admirable characteristics is the zeal with which he represents his clients." Favorable character evidence from attorneys is entitled to considerable weight because attorneys have a "strong interest in maintaining the honest administration of justice." (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319.)

The client letters detailed services that Lanphier performed without compensation. Lanphier's good character evidence is afforded minimal weight because the testimony and letters fail to illustrate that each individual was "aware of the full extent of the misconduct." (Std. 1.6(f); *In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, [mitigating value of character testimony undermined when witnesses unaware of full extent of misconduct].) Moreover, the testimony of his employees is inherently biased.

Overall, the substantial weight of the aggravating circumstances is far greater than the mitigating factors.[5]

[5] Though he does not explicitly ask for mitigation on this point, Lanphier does highlight remedial changes to his office practices, such as implementing a new calendaring system so appointments are not missed. The court finds there is not clear and convincing evidence establishing these changes and whether they are adequate to prevent future missteps.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090.) The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92 (citations omitted).) The standards are not mandatory and they may be deviated from when there is a compelling, well-defined reason to do so. (*Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

Standards 2.7(b) and 1.8(a) are most apt here. Standard 2.7(b) provides that "[a]ctual suspension is the presumed sanction for performance . . . violations in multiple client matters, not demonstrating habitual disregard of client interests." Standard 1.8(a) provides that when a member has a single prior record of discipline, the "sanction must be greater than the previously imposed sanction," subject to certain exceptions that are inapplicable here.

OCTC professes that Lanphier's misconduct merits a six-month actual suspension while Lanphier urges the court to deviate from the standards and impose a 30-day actual suspension.

After a thorough examination, the court is unable to find cases squarely in line with the present matter. But the court finds guidance in *Gadda v. State Bar* (1990) 50 Cal.3d 344, where the Supreme Court imposed six months' actual suspension and until the attorney paid restitution. The misconduct included neglecting two immigration matters, instructing a client to lie to a government official, failing to properly supervise an associate attorney, and mailing hundreds of letters falsely advertising the ability to provide legal services. In aggravation, the attorney had

multiple acts of misconduct, failed to recognize the seriousness of his wrongdoing and accept responsibility for it. In mitigation, this was his first discipline and he had substantial pro bono work. Even though *Gadda* involved false advertising, the discipline was mainly based on the attorney's immigration law misconduct.

Also instructive is *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, where the Review Department recommended a six-month actual suspension and until the attorney paid restitution. The attorney abdicated the handling of personal injury cases to his nonattorney staff. His gross negligence, amounting to moral turpitude, lasted about a year, and resulted in misconduct in several matters. He provided incompetent legal services, maintained inadequate trust account balances, inadvertently took trust funds to which he was not entitled, kept inadequate records, and provided delayed accountings. In aggravation, he committed multiple acts of misconduct, harmed clients, engaged in concealment, showed lack of candor, and failed to inform clients promptly upon the receipt of settlement funds. In mitigation, he voluntarily made restitution to almost all the clients well before the State Bar's involvement, although he still owed compensation. He also implemented a new office management system to prevent future problems. This was the attorney's first discipline.

Lanphier's misconduct warrants an equivalent sanction to *Gadda* and *Bouyer*. It was ethically irresponsible for him to employ Kwun and David without thoroughly supervising their work. Lanphier was well aware of Kwun's shortcomings and chose to look the other way. Although his misconduct was not as extensive as in *Gadda* and *Bouyer* because no moral turpitude was involved, Lanphier's lack of supervision harmed the administration of justice – his firm's poor practices alarmed at minimum two judges of the Immigration Court. The firm's vulnerable clients suffered prejudicial delays. Despite multiple acts of wrongdoing, Lanphier fails to recognize the seriousness of his failures. Unlike the cases above, Lanphier also has a

prior discipline record. The court finds that a six-month actual suspension is the appropriate progressive discipline for the misconduct in this case.

Recommendations

Discipline – Actual Suspension

It is recommended that Steele Lanphier, State Bar Number 146163, be suspended from the practice of law for two years, that execution of that suspension be stayed, and that Lanphier be placed on probation for two years with the following conditions.

Conditions of Probation

1. Actual Suspension

Lanphier must be suspended from the practice of law for the first six months of his probation.

2. Restitution

Within the first year of probation, Lanphier must make restitution in the amount of $5,600, plus 10 percent interest per year from March 15, 2018, to Heber Gomez or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse 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) and must furnish satisfactory proof of restitution to the Office of Probation.

3. Review Rules of Professional Conduct

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Lanphier must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to his compliance

with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with his first quarterly report.

4. Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions

Lanphier must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of his probation.

5. Maintain Valid Official Membership Address and Other Required Contact Information

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Lanphier must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has his current office address, email address, and telephone number. If Lanphier does not maintain an office, he must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Lanphier must report, in writing, any change in the above information to ARCR, within 10 days after such change, in the manner required by that office.

6. Meet and Cooperate with Office of Probation

Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Lanphier must schedule a meeting with the assigned probation case specialist to discuss the terms and conditions of his discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Lanphier may meet with the probation case specialist in person or by telephone. During the probation period, Lanphier must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

7. State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court

During the probation period, the State Bar Court retains jurisdiction over Lanphier to address issues concerning compliance with probation conditions. During this period, Lanphier must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to his official membership address, as provided above. Subject to the assertion of applicable privileges, Lanphier must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.

8. Quarterly and Final Reports

a. Deadlines for Reports. Lanphier must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Lanphier must submit a final report no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.

b. Contents of Reports. Lanphier must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether he has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

c. Submission of Reports. All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. Proof of Compliance. Lanphier is directed to maintain proof of compliance with the above requirements for each report for a minimum of one year after either the period of probation or the period of his actual suspension has ended, whichever is longer. He is required to present proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

9. State Bar Ethics School

Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Lanphier must submit to the Office of Probation satisfactory evidence of completion of the State Bar Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Lanphier will not receive MCLE credit for attending this session. If Lanphier provides satisfactory evidence of completion of the Ethics School after the date of this decision but before the effective date of the Supreme Court's order in this matter, he will nonetheless receive credit for such evidence toward his duty to comply with this condition.

10. Proof of Compliance with Rule 9.20 Obligations

Lanphier is directed to maintain, for a minimum of one year after the commencement of probation, proof of compliance with the Supreme Court's order that he comply with the requirements of California Rules of Court, rule 9.20(a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Lanphier sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal

authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Lanphier with the State Bar Court. Lanphier is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

11. Commencement of Probation/Compliance with Probation Conditions

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Lanphier has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Multistate Professional Responsibility Examination

It is further recommended that Lanphier be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Lanphier provides satisfactory evidence of the taking and passage of the above examination after the date of this Decision but before the effective date of the Supreme Court's order in this matter, he will nonetheless receive credit for such evidence toward his duty to comply with this requirement.

California Rules of Court, rule 9.20

It is further recommended that Lanphier be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform 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.[6] Failure to do so may result in disbarment or suspension.

Costs

It is further recommended that 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. 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.

MANJARI CHAWLA

Dated: May 21, 2020

MANJARI CHAWLA
Judge of the State Bar Court

[6] 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, Chavez is required to file a rule 9.20(c) affidavit even if Chavez 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).)

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on May 21, 2020, I deposited a true copy of the following document(s):

DECISION

in a sealed envelope for collection and mailing on that date as follows:

☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

STEELE LANPHIER
1860 HOWE AVE STE 330
SACRAMENTO, CA 95825-1098

☒ by electronic transmission on that date to the following:

STEELE LANPHIER
lanphierassociates@comcast.net

DUNCAN C. CARLING
duncan.carling@calbar.ca.gov

☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Duncan C. Carling, Office of Chief Trial Counsel, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 21, 2020.

George Hue
Court Specialist
State Bar Court