

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

05/13/2025

Clerk of the
Appellate Courts

IN RE: DALE GERARD NOWICKI, BPR No. 036672

An Attorney Licensed to Practice Law in Tennessee
(La Mirada, California)

No. M2025-00331-SC-BAR-BP

ORDER OF RECIPROCAL DISCIPLINE

This matter is before the Court pursuant to Tenn. Sup. Ct. R. 9, § 25, upon a Notice of Submission filed by the Board of Professional Responsibility (“Board”) containing a certified copy of the January 6, 2025 Order of the California Supreme Court suspending Dale Gerard Nowicki from the practice of law for two (2) years, with the suspension stayed and Mr. Nowicki placed on probation, subject to certain conditions, including, but not limited to, Mr. Nowicki serving the first ninety (90) days of probation on active suspension.

On March 10, 2025, this Court entered a Notice of Reciprocal Discipline requiring Mr. Nowicki to inform this Court within thirty (30) days of receipt of the Notice why reciprocal discipline with identical terms and conditions to the Order of the Supreme Court of California should not be imposed in Tennessee pursuant to Tenn. Sup. Ct. R. 9, § 25.4.

On March 17, 2025, Mr. Nowicki filed a response, asking this Court to review certain materials that were submitted in the California proceedings and decline to impose discipline at all, or to impose, at most, a sixty-day (60) active suspension. Mr. Nowicki also asked the Court to waive costs and fees in this matter.

On March 26, 2025, this Court directed the Board to file a reply to Mr. Nowicki’s response, and the Board submitted its reply on April 23, 2025.

Upon careful consideration of the record in this matter, the Court concludes that Mr. Nowicki has not established any of the elements in Tenn. Sup. Ct. R. 9, § 25.4(a)-(c), and entry of an Order of Reciprocal Discipline is appropriate.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED
BY THE COURT THAT:

- (1) Dale Gerard Nowicki is suspended from the practice of law in this State for two years, with the first ninety (90) days served on active suspension

retroactive to the date of suspension in California, and the remainder on probation, subject to the conditions specified in the January 6, 2025 Order of the Supreme Court of California (attached as Exhibit A).

- (2) Pursuant to Tenn. Sup. Ct. R. 9, § 31.3, Mr. Nowicki shall pay to the Clerk of this Court the costs incurred herein within thirty days of the entry of this order, for all of which execution may issue if necessary.
- (3) Mr. Nowicki shall comply in all respects with Tenn. Sup. Ct. R. 9, §§ 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.
- (4) Prior to seeking reinstatement of his Tennessee law license, Mr. Nowicki must:
 - a. comply with the terms and conditions of the January 6, 2025 Order of the Supreme Court of California;
 - b. satisfy the terms and conditions of this Order;
 - c. meet all CLE requirements;
 - d. pay all outstanding registration fees and outstanding professional privilege taxes, including those due from the date of this suspension until the date of reinstatement; and
 - e. pay all court costs and Board costs due and owing to the respective entity.
- (5) The Board of Professional Responsibility shall cause notice of this discipline to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.
- (6) Pursuant to Tenn. Sup. Ct. R. 9, § 28.1, this Order shall be effective upon entry.

PER CURIAM

(State Bar Court No. SBC-24-O-30428)

S286880

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re DALE G. NOWICKI on Discipline

The court orders that Dale G. Nowicki (Respondent), State Bar Number 266652, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and Respondent is placed on probation for two years subject to the following conditions:

1. Respondent is suspended from the practice of law for the first 90 days of probation;
2. Respondent must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 6, 2024; and
3. At the expiration of the period of probation, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Respondent must provide to the State Bar's Office of Probation proof of taking and passing the Multistate Professional Responsibility Examination as recommended by the Hearing Department in its Order Approving Stipulation filed on August 6, 2024. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Respondent must comply with California Rules of Court, rule 9.20, and perform the acts specified in (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the date this order is filed. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45 [the operative date for identification of clients being represented in pending matters and others to be notified is the filing date of this order].) Failure to do so may result in disbarment or suspension. Respondent must also maintain the records of compliance as required by the conditions of probation.

Exhibit A

Respondent must pay monetary sanctions to the State Bar of California Client Security Fund in the amount of \$500 in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar. Monetary sanctions are enforceable as a money judgment and may be collected by the State Bar through any means permitted by law.

Costs are 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, and may be collected by the State Bar through any means permitted by law. One-half of the costs must be paid with Respondent's annual fees for each of the years 2026 and 2027. If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance is due and payable immediately.

GUERRERO
Chief Justice

I, JAMES NAVARETE, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

____ day of JAN 26 2025

By: [Signature]
Deputy

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in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

(7) ☐ **Actual Suspension with Credit for Interim Suspension:**

Respondent is suspended from the practice of law for _____, the execution of that suspension is stayed, and Respondent is placed on probation for _____ with the following conditions.

- Respondent is suspended from the practice of law for the first _____ of probation (with credit given for the period of interim suspension which commenced on _____).

E. Additional Conditions of Probation:

- (1) ☒ **Review Rules of Professional Conduct:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126. Respondent must provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.
- (2) ☒ **Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions:** Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.
- (3) ☒ **Maintain Valid Official State Bar Record Address and Other Required Contact Information:** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.
- (4) ☒ **Meet and Cooperate with Office of Probation:** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned Probation Case Coordinator to discuss the terms and conditions of Respondent's 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, Respondent may meet with the Probation Case Coordinator in person or by telephone. During the probation period, Respondent 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.
- (5) ☒ **State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court:** During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official State Bar record address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.
- (6) ☒ **Quarterly and Final Reports:**
 - a. **Deadlines for Reports.** Respondent 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, Respondent must submit a final report no earlier than ten (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.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent 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.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (7) ☒ **State Bar Ethics School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent 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 Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (8) ☐ **State Bar Ethics School Not Recommended:** It is not recommended that Respondent be ordered to attend the State Bar Ethics School because .
- (9) ☐ **State Bar Client Trust Accounting School:** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar Client Trust Accounting 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 Respondent will not receive MCLE credit for attending this session. If Respondent provides satisfactory evidence of completion of the Client Trust Accounting School after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (10) ☐ **Minimum Continuing Legal Education (MCLE) Courses – California Legal Ethics [Alternative to State Bar Ethics School for Out-of-State Residents]:** Because Respondent resides outside of California, within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must either 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 or, in the alternative, complete _____ hours of California Minimum Continuing Legal Education-approved participatory activity in California legal ethics and provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the Ethics School or the hours of legal

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education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.

- (11) ☐ **Criminal Probation:** Respondent must comply with all probation conditions imposed in the underlying criminal matter and must report such compliance under penalty of perjury in all quarterly and final reports submitted to the Office of Probation covering any portion of the period of the criminal probation. In each quarterly and final report, if Respondent has an assigned criminal probation officer, Respondent must provide the name and current contact information for that criminal probation officer. If the criminal probation was successfully completed during the period covered by a quarterly or final report, that fact must be reported by Respondent in such report and satisfactory evidence of such fact must be provided with it. If, at any time before or during the period of probation, Respondent's criminal probation is revoked, Respondent is sanctioned by the criminal court, or Respondent's status is otherwise changed due to any alleged violation of the criminal probation conditions by Respondent, Respondent must submit the criminal court records regarding any such action with Respondent's next quarterly or final report.
- (12) ☐ **Minimum Continuing Legal Education (MCLE):** Within _____ after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must complete _____ hour(s) of California Minimum Continuing Legal Education-approved participatory activity in SELECT ONE _____ and must provide proof of such completion to the Office of Probation. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for this activity. If Respondent provides satisfactory evidence of completion of the hours of legal education described above, completed after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this condition.
- (13) ☐ **Other:** Respondent must also comply with the following additional conditions of probation: _____.
- (14) ☒ **Proof of Compliance with Rule 9.20 Obligations:** Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c), as recommended below. Such proof must include: the names and addresses of all individuals and entities to whom Respondent 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 Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.
- (15) ☐ **The following conditions are attached hereto and incorporated:**
- ☐ Financial Conditions ☐ Medical Conditions
- ☐ Substance Abuse 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 Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

F. Other Requirements Negotiated by the Parties (Not Probation Conditions):

- (1) ☒ **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension:** Respondent must 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 or during the period of Respondent's actual suspension, whichever is longer, and provide satisfactory proof of such passage to the State Bar's Office

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of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this stipulation but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward Respondent's duty to comply with this requirement.

- (2) ☐ **Multistate Professional Responsibility Examination Requirement Not Recommended:** It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because .
- (3) ☒ **California Rules of Court, Rule 9.20:** Respondent must comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the date the Supreme Court order imposing discipline in this matter is filed. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45 [the operative date for identification of clients being represented in pending matters and others to be notified is the filing date of this order].) Failure to do so may result in disbarment or suspension.

Respondent is required to file a rule 9.20(c) affidavit even if Respondent 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).)

- (4) ☐ **California Rules of Court, Rule 9.20 – Conditional Requirement:** If Respondent remains suspended for 90 days or longer, Respondent must comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the date the Supreme Court order imposing discipline in this matter is filed. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45 [the operative date for identification of clients being represented in pending matters and others to be notified is the filing date of this order].) Failure to do so may result in disbarment or suspension. In addition, Respondent must also comply with the probation condition at paragraph E.(14) entitled Proof of Compliance with Rule 9.20 Obligations.

Respondent is required to file a rule 9.20(c) affidavit even if Respondent 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).)

- (5) ☐ **California Rules of Court, Rule 9.20, Requirement Not Recommended:** It is not recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, because .
- (6) **Payment of Monetary Sanctions:** Respondent acknowledges Business and Professions Code § 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar. It is recommended that (check one option only):
- ☒ Respondent must pay monetary sanctions to the State Bar of California Client Security Fund in the amount of \$500.00 in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar. Monetary sanctions are enforceable as a money judgment and may be collected by the State Bar through any means permitted by law. Monetary sanctions must be paid in full as a condition of reinstatement or return to active status, unless time for payment is extended pursuant to rule 5.137 of the Rules of Procedure of the State Bar. Monetary sanctions in the above amount are recommended because (1) Even after he associated co-counsel in the Civil Case, which converted the retainer agreement with his client to a contingency fee case, Respondent treated the matter as a pro bono case, and he gave his portion of attorney's fees to the client following

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settlement; and (2) because the client is not owed any money, CSF will not be incurring any expense in this case.

- ☐ Respondent must pay monetary sanctions to the State Bar of California Client Security Fund in the amount of \$ _____ in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar. Monetary sanctions must be paid in installments of <Enter Installment Ratio> per year, with Respondent's annual fees for each of the years _____. If Respondent fails to pay any installment as described above, or as may be modified in writing by the State Bar or the State Bar Court, the remaining balance is due and payable immediately. Monetary sanctions are enforceable as a money judgment and may be collected by the State Bar through any means permitted by law. Monetary sanctions in the above amount are recommended because _____. Respondent may pay the monetary sanctions in installments because _____.
- ☐ Respondent must pay monetary sanctions to the State Bar of California Client Security Fund in the amount of \$ _____ in accordance with Business and Professions Code section 6086.13 and rule 5.137 of the Rules of Procedure of the State Bar. The time to pay such monetary sanctions is extended, and Respondent must pay the sanctions with Respondent's annual fees by _____. Monetary sanctions are enforceable as a money judgment and may be collected by the State Bar through any means permitted by law. Monetary sanctions in the above amount are recommended because _____. The time to pay such monetary sanctions is extended because _____.
- ☐ Monetary sanctions are entirely waived because _____.
- (7) ☐ **Other Requirements:** It is further recommended that Respondent be ordered to comply with the following additional requirements: _____.

Attachment language (if any):

(See next page)

private client, had the potential for causing conflict of interest issues and undermining public confidence in the legal system.

"Misrepresentations are no less egregious when a public body is misled, and they warrant discipline of no less magnitude. The definition of aggravating circumstance encompasses significant harm to a 'client, the public or the administration of justice.'" (*Wyrick* at 93.) Nevertheless, the court found there was no significant harm, and whatever harm was caused by the deceit was minimal. Wyrick still received six months' actual suspension, in part due to his prior suspension.

Moral turpitude can be committed by intentional, reckless, or grossly negligent conduct. (*Gassman v. State Bar* (1976) 18 Cal.3d 127, 130). In our matter, Respondent intentionally failed to disclose his outside employment beginning with his first day of employment and actively concealed his outside work. Later, through gross negligence his Form 700 contained misrepresentations. Respondent's misconduct is more serious than in *Mitchell, supra*, but less egregious than in *Wyrick, supra*. In light of the Standards and case law, and in consideration of Standard 2.7, with mitigation and aggravation, discipline of ninety (90) days' actual suspension is appropriate, including two (2) years' stayed suspension and two (2) years' probation, in addition to the conditions herein.

E-LEARNING CONDITION.

Complete E-Learning Course Reviewing Rules and Statutes on Professional Conduct.

Within 90-days after the effective date of discipline herein, respondent must complete the e-learning course entitled "California Rules of Professional Conduct and State Bar Overview." Respondent must provide a declaration, under penalty of perjury, attesting to respondent's compliance with this requirement, to the Office of Probation no later than the deadline for respondent's first quarterly report due after completion of the course. This condition is in addition to respondent's other conditions and terms, set forth herein.