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Supreme Court
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SCAD-19-0000204

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

vs.

ERNESTO MONTEMAYOR GANADEN,
Respondent.

ORIGINAL PROCEEDING
(ODC Case No. 16-O-245)

ORDER OF PUBLIC CENSURE

(By: Recktenwald, C.J., Nakayama, Pollack, and Wilson, JJ.,
and Intermediate Court of Appeals Associate Judge Hiraoka,
in place of McKenna, J., recused)

Upon consideration of the report and recommendation filed on March 18, 2019 by the Disciplinary Board of the Hawai‘i Supreme Court, the briefs submitted by Respondent Ernesto Ganaden and the Office of Disciplinary Counsel (ODC), and the record in this matter, we make the following Findings of Fact and Conclusions of Law, based upon clear and convincing evidence.

We find that Respondent Ganaden failed to timely file his 2016 registration materials with the Hawai‘i State Bar Association, so that, as a result, as of March 1, 2016,

Respondent Ganaden's license to practice law was administratively suspended and, therefore, that he was not authorized to practice law in this jurisdiction from that date until his reinstatement on June 16, 2016. We find that, during this period of administrative suspension, Respondent Ganaden represented defendants in three separate criminal cases, including by making court appearances.

We further find that, after being made aware of his lack of an active law license during the relevant period, he nevertheless submitted applications for fees and costs for legal work performed while administratively suspended.

We conclude the foregoing conduct violated Rules 1.5, 3.4(e), 5.5(a) and 8.4(c) of the Hawai'i Rules of Professional Conduct (2014). We find, in aggravation, that Respondent Ganaden engaged in a pattern of misconduct and committed multiple violations. We find, in mitigation, that Respondent Ganaden has a clean disciplinary record and was candid and cooperative in the disciplinary investigation and proceedings. Therefore,

IT IS HEREBY ORDERED that Respondent Ganaden is publicly censured, pursuant to Rule 2.3(a)(3) of the Rules of the Supreme Court of the State of Hawai'i (RSCH).

IT IS FURTHER ORDERED that Respondent Ganaden shall, pursuant to RSCH Rule 2.3(c), submit reimbursement payments totaling \$1,665.00 to the appropriate state authority and shall submit proof of those payments to this court within 90 days after the entry date of this order.

IT IS FURTHER ORDERED that Respondent Ganaden shall successfully complete, at his own expense, the Multi-State Professional Responsibility Examination and submit proof of that to this court within one year from the entry date of this order.

IT IS FURTHER ORDERED that Respondent Ganaden shall bear the cost of the disciplinary proceedings, upon approval by this court of a timely submitted verified bill of costs from the Office of Disciplinary Counsel, pursuant to RSCH Rule 2.3(c).

IT IS FURTHER ORDERED that failure to timely fulfill any of the foregoing conditions may result in further discipline.

DATED: Honolulu, Hawai'i, October 18, 2019.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Richard W. Pollack

/s/ Michael D. Wilson

/s/ Keith K. Hiraoka

