

I do hereby certify that the foregoing is a full, true and correct copy of the original on file in the office of the Clerk of the Supreme Court of the State of Hawaii.

Dated, at Honolulu, Hawaii, 3-8 A.D. 1993

J. Hallaguer
Clerk, Supreme Court, State of Hawaii

No. 16907

IN THE SUPREME COURT OF THE STATE OF HAWAII

OFFICE OF DISCIPLINARY COUNSEL,	)	ODC 90-138-2956
	)	91-309-3352
Petitioner,	)	92-210-3583
)	
v.	)	DISCIPLINARY BOARD'S REPORT
	)	AND RECOMMENDATION FOR THE
	)	SUSPENSION OF CLARENCE F.T.
CLARENCE F.T. CHING,	)	CHING FROM THE PRACTICE OF
	)	LAW FOR A PERIOD OF TWO
Respondent.	)	YEARS

DISCIPLINARY BOARD'S REPORT AND RECOMMENDATION
FOR THE SUSPENSION OF CLARENCE F.T. CHING FROM
THE PRACTICE OF LAW FOR A PERIOD OF TWO (2) YEARS

The Disciplinary Board of the Hawaii Supreme Court ("Disciplinary Board"), pursuant to Rule 2.7(c), Rules of the Supreme Court of Hawaii ("RSCH"), hereby submits this Report and Recommendation for the suspension of CLARENCE F.T. CHING, Esq. ("Respondent"), from the practice of law for a period of two (2) years.

I. Procedural Background.

This matter is before the Hawaii Supreme Court with the following procedural background:

A. The Office of Disciplinary Counsel ("Petitioner") initiated these proceedings against Respondent by filing with the Disciplinary Board on February 10, 1992, a Petition setting forth allegations of unprofessional conduct on the part of Respondent.

B. Initial attempts to serve Respondent with the Petition by personal service were unsuccessful. However, on March 25, 1992, Respondent was duly served with a copy of the Petition by

certified mail. Respondent did not file an Answer to the Petition.

C. This matter was thereafter duly assigned by the Chairperson of the Disciplinary Board to a Hearing Committee comprised of: David A. Nakashima, Esq., Chairperson; Chris J. Smith, AIA, Member; and Judith A. Schevtchuk, Esq., Member. A Prehearing Conference was held on August 19, 1992. Respondent did not appear and was not represented by counsel.

D. On August 25, 1992, a Prehearing Order was filed whereby: (1) the formal hearing was set for November 6, 1992; (2) Petitioner was directed to file its Exhibit and Witness Lists and Exhibits on or before September 16, 1992; (3) Respondent was directed to file his Exhibit and Witness Lists and Exhibits on or before October 14, 1992; (4) Petitioner was granted leave to obtain approval from a Reviewing Board Member to amend the Petition, and to file and attempt to serve the Amended Petition upon Respondent by both personal service and certified mail; (5) Petitioner was directed to provide the Hearing Committee with an affidavit describing all attempts made by Petitioner to provide Respondent with notice of these proceedings to date; and (6) Petitioner was directed to send all future correspondence, notices, and copies of pleadings in this proceeding to Respondent by both regular and certified mail.

E. On September 8, 1992, Petitioner filed an Amended Petition in this matter, which was duly served upon Respondent by personal service on September 15, 1992.

F. On September 16, 1992, Petitioner filed its Exhibit and Witness Lists and Exhibits. Respondent did not file any Exhibit and Witness Lists or Exhibits.

G. The formal hearing was re-scheduled (at the request of the Hearing Committee Chairperson) to, and held on, December 8, 1992. Present at the hearing were the Hearing Committee and Charlene M. Norris, Assistant Disciplinary Counsel, for Petitioner. Respondent did not appear and was not represented by counsel. The Committee noted (based upon the Committee's review of the Affidavit of Charlene M. Norris filed on December 8, 1992) that reasonable efforts had been made by Petitioner to provide Respondent with notice of these proceedings. The Committee also received into evidence Petitioner's Exhibits A-1 through A-7, B-1 through B-12, and C-1 through C-5, and the Committee heard argument from Petitioner regarding the Disciplinary Rules violated by Respondent and the appropriate measure of discipline to be imposed for such conduct.

H. On December 22, 1992, the Hearing Committee's Findings of Fact, Conclusions of Law, and Recommendation for Discipline (attached hereto as Exhibit A) was filed, whereby the Committee recommended that Respondent be suspended from the practice of law for a period of two (2) years.

I. On January 15, 1993, Petitioner filed the Affidavit of Charlene M. Norris describing all further attempts made by Petitioner to provide Respondent with notice of these proceedings.

J. This case was heard before the Disciplinary Board on January 28, 1993. A presentation was made by Charlene M. Norris, Assistant Disciplinary Counsel, on behalf of Petitioner. Respondent did not appear and was not represented by counsel.

II. Findings of Fact, Conclusions of Law, and Recommendation for Discipline.

The Disciplinary Board, after discussion of the matter, and pursuant to motion duly made, seconded, and carried, determined to adopt the Hearing Committee's Findings of Fact, Conclusions of Law, and Recommendation for Discipline, to-wit: suspension of Respondent from the practice of law for a period of two (2) years, effective immediately. Additionally, Respondent's future reinstatement to the practice of law should be conditioned upon his: (1) payment of the costs of this disciplinary proceeding; (2) successful completion of the full Hawaii Bar Examination; (3) payment of the judgment obtained against him in Janie Yee and Mung Hong Yee v. Clarence F.T. Ching (Civil No. 90-0083-03) in an amount and according to the terms and conditions specified by the Hearing Committee to be appointed in the reinstatement proceedings; and (4) proffer of clear and convincing evidence of his rehabilitation, fitness to practice law, competence and compliance with all applicable disciplinary or disability orders and rules, and compliance with any other requirements imposed by the court.

In addition to the foregoing, the Board determined that Respondent should be referred by Petitioner to the Attorneys and Judges Assistance Program.

III. Recommendation for Discipline.

WHEREFORE, the Disciplinary Board of the Hawaii Supreme Court hereby submits its Report and respectfully recommends that Respondent be suspended from the practice of law for a period of two (2) years, and that Respondent's future reinstatement to the practice of be conditioned upon his: (1) payment of the costs of

this disciplinary proceeding; (2) successful completion of the full Hawaii Bar Examination; (3) payment of the judgment obtained against him in Janie Yee and Mung Hong Yee v. Clarence F.T. Ching (Civil No. 90-0083-03) in an amount and according to the terms and conditions specified by the Hearing Committee to be appointed in the reinstatement proceedings; and (4) proffer of clear and convincing evidence of his rehabilitation, fitness to practice law, competence and compliance with all applicable disciplinary or disability orders and rules, and compliance with any other requirements imposed by the court.

In addition, Respondent has been referred by Petitioner to the Attorneys and Judges Assistance Program, pursuant to the Board's direction.

DATED: Honolulu, Hawaii, March 5, 1993.

DISCIPLINARY BOARD OF THE
HAWAII SUPREME COURT

By James A. Kawachika
JAMES A. KAWACHIKA
Vice Chairperson

DISCIPLINARY BOARD
OF THE
HAWAII SUPREME COURT

RECEIVED

22nd Dec 1992
DAY MONTH YEAR

TIME: 11:30 AM BY j

Before the
DISCIPLINARY BOARD
of the
HAWAII SUPREME COURT

OFFICE OF DISCIPLINARY COUNSEL,	)	<u>CONFIDENTIAL</u>
)	
Petitioner,	)	ODC 90-138-2956
	)	91-309-3352
v.	)	92-210-3583
)	
CLARENCE F.T. CHING,	)	HEARING COMMITTEE'S FINDINGS
	)	OF FACT, CONCLUSIONS OF LAW,
Respondent.)	AND RECOMMENDATION FOR
)	DISCIPLINE

HEARING COMMITTEE'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND RECOMMENDATION FOR DISCIPLINE

The Office of Disciplinary Counsel of the Hawaii Supreme Court ("Petitioner") initiated these disciplinary proceedings against Clarence F.T. Ching ("Respondent") by filing with the Disciplinary Board of the Hawaii Supreme Court on February 10, 1992 a Petition setting forth allegations of unprofessional conduct against Respondent.

Pursuant to Rule 2.11(a), Rules of the Supreme Court of Hawaii ("RSCH"), and DB 11(a), Rules of Procedure of the Disciplinary Board, file-stamped copies of the Summons and Petition were forwarded to Respondent on March 25, 1992 by postage prepaid certified mail, return receipt requested, at his last-known address.

Petitioner received Return Receipt No. P129 735 455, evidencing that Respondent received the copies of the Summons and Petition at his last-known address on March 25, 1992. However, Respondent failed to file an Answer to the Petition, and on May 28,

EXHIBIT A

1992, Petitioner forwarded notice to Respondent that his failure to file an Answer was deemed to constitute an admission to the allegations contained in the Petition.

On July 1, 1992, the Chairperson of the Disciplinary Board assigned this case to a Hearing Committee comprised of: David A. Nakashima, Esq., Chairperson; Judith A. Schevtchuk, Esq., Member; and Chris J. Smith, AIA, Member.

A Prehearing Conference was held on August 19, 1992 at the Office of Disciplinary Counsel. Although notice was forwarded to Respondent on July 10, 1992, by regular mail, he did not appear and was not represented by counsel. The formal hearing was set for November 6, 1992, and Petitioner was granted leave to obtain approval from the Reviewing Disciplinary Board Member to file an Amended Petition.

On September 8, 1992, Petitioner filed a Summons and Amended Petition which was personally served upon Respondent on September 15, 1992. Respondent failed to file an Answer to the Amended Petition.

On September 16, 1992, Petitioner filed its Witness and Exhibit Lists.

At the request of the Hearing Committee Chairperson David A. Nakashima, Esq., the formal hearing was re-scheduled to, and held on, December 8, 1992 at the Office of Disciplinary Counsel. Present at the hearing were: the Hearing Committee; and Charlene M. Norris, Assistant Disciplinary Counsel, for Petitioner. Respondent failed to appear and was not represented by counsel.

At the hearing, the Committee noted (based on a review of the Affidavit of Charlene M. Norris filed December 8, 1992) that proper and reasonable efforts had been made by Petitioner to provide Respondent with adequate notice of the rescheduled formal hearing in this proceeding. The Committee also received into evidence Petitioner's Exhibits A-1 through A-7, B-1 through B-12, and C-1 through C-5.

Based upon the charges in the Petition, which have been deemed admitted, the documentary evidence admitted into evidence, and Petitioner's argument in support of its recommendation for discipline, the Hearing Committee makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Respondent was duly admitted to the practice of law in the State of Hawaii on September 20, 1976. Since being admitted to the Bar of the Supreme Court of Hawaii, Respondent registered and paid his attorney registration fees and bar dues through December 1991. However, on June 9, 1992, Respondent was administratively suspended for failure to pay his bar dues. Respondent remains administratively suspended to date. Respondent's current mailing address is 2745-B Booth Road, Honolulu, Hawaii 96813.

I. JUDITH PAVEY MATTER (ODC 90-138-2956).

A. On February 25, 1982, Respondent was retained by Mung Hong Yee and Janie Yee (the "Yees") to pursue their respective claims for injuries and damages arising out of their January 28, 1982 automobile accident. Respondent received a retainer from the Yees in the amount of \$500.00.

B. Upon retaining Respondent, Mung Hong Yee agreed that Respondent's fees would be paid on a contingency basis (including 33-1/3% of the total amount received in settlement if the case was settled, and 40% of the total award if the case was tried in court).

C. From March 1982 to approximately September 1989, Respondent failed and neglected to file a civil complaint on behalf of Janie Yee and failed and neglected to file a claim for excess wage loss on behalf of Mung Hong Yee prior to the expiration of the statute of limitations in each case.

D. During that same period, Respondent failed and neglected to communicate with the Yees and to keep them apprised of the status of their legal matters.

E. On or about September 21, 1989, Respondent was discharged by the Yees, and he refunded to Mung Hong Yee the sum of \$255.00 after deduction of attorney's fees of \$245.00 for services performed in Mr. Yee's disability compensation matter (listed on Respondent's billing statement as case numbers 28217681, 28601181, and 28621465).

F. In July 1989, the Yees retained Judith Ann Pavey, Esq. ("Pavey"), to pursue their claims arising out of their January 1982 automobile accident, and also to represent them in a possible legal malpractice action against Respondent.

G. On February 5, 1990, Pavey forwarded to Respondent a written demand for \$25,000.00 under his errors and omissions policy due to his failure to file a timely personal injury lawsuit

on behalf of Janie Yee and his failure to obtain excess wage loss benefits on behalf of Mung Hong Yee. Respondent failed to reply to this demand.

H. On March 21, 1990, Pavey filed a civil complaint in Janie Yee and Mung Hong Yee v. Clarence F.T. Ching, Civil No. 90-0083-03 (First Circuit Court, State of Hawaii) (the "malpractice action"), alleging that Respondent's negligent conduct in representing the Yees constituted a breach of contract and fell below the standard of care for an attorney.

I. The civil complaint filed by Pavey also alleged that, as a direct and proximate result of Respondent's conduct, Janie Yee was unable to obtain damages from the driver who caused the January 1982 accident and that Mung Hong Yee was unable to obtain excess wage loss benefits from his no-fault insurance carrier.

J. The civil complaint further asserted, inter alia, that the Yees suffered serious emotional distress as a result of the loss of their rights and Respondent's negligent failure to answer their calls or to make amends for his mistakes.

K. On July 31, 1990, Pavey notified Petitioner that the malpractice action had been filed against Respondent, that he had failed and neglected to return her telephone calls, that Respondent had failed to file an Answer, and that a default judgment had been entered against him. Pavey further advised Petitioner that Respondent's deposition would be taken, and that the case would proceed to a proof hearing.

L. Petitioner forwarded requests to Respondent for his detailed written reply to this matter on August 6, 1990 (by regular mail), and again on August 24, 1990 (by certified mail). Respondent failed and neglected to reply to both of those requests.

M. On August 30, 1990, Respondent's deposition was taken by Pavey in the malpractice action.

N. On September 7, 1990, a subpoena was issued to Respondent to appear before Petitioner on September 21, 1990 and to bring his written reply in this matter. In response thereto, Respondent duly appeared on September 21, 1990 and advised Petitioner that he was practicing law from his residence at 2745-B Booth Road, Honolulu, Hawaii 96813, that he would contact Pavey to discuss the malpractice action, and that he would submit a written reply in this matter on or before October 2, 1990.

O. On October 9, 1990, Petitioner received a letter from Respondent advising that he had made an offer to Pavey to initiate monthly payments to the Yees in settlement of the malpractice action.

P. Petitioner forwarded requests to Respondent for a status report in the malpractice action on December 26, 1990 (by regular mail) and again on January 17, 1991 (by certified mail). Respondent failed and neglected to reply to these requests. Therefore, on March 11, 1991, Petitioner's Investigator, Ronald J. Sanchez, contacted Respondent and requested that he meet with Petitioner on March 20, 1991.

Q. Respondent did not meet with Petitioner on March 20, 1991. On March 25, 1991, Petitioner received a letter from Respondent advising that Pavey had rejected his offer of settlement and opted to pursue her clients' remedy to obtain a judgment against him. He also stated that he would take no action on the default and presumed that the judgment would be granted.

R. On August 27, 1991, Acting Circuit Court Judge Frances Q. F. Wong issued an "Order Granting Plaintiffs' Motion for Default Judgment Against Defendant Clarence F.T. Ching filed 11/29/90", entering judgment against Respondent in the sum of \$32,500.00 for Janie Yee and the sum of \$9,945.00 for Mung Hong Yee.

S. Respondent's neglect of the Yees' legal matters, including his failure to timely file for excess wage loss benefits on behalf of Mung Hong Yee and his failure to timely file a civil claim on behalf of Janie Yee, and his failure to timely cooperate with Petitioner's investigation of the underlying complaint, constitute violations of the following provisions of the Hawaii Code of Professional Responsibility:

1. DR 6-101(A)(3) (prohibiting neglect of any legal matter entrusted to him);
2. DR 7-101(A)(1) (failure to seek the lawful objectives of his clients through reasonably available means);
3. DR 7-101(A)(2) (failure to carry out contracts of employment);

4. DR 7-101(A)(3) (prejudice or damage to his clients during the course of the professional relationship); and

5. DR 1-102(A)(6) (conduct adversely reflecting on his fitness to practice law).

II. KAREN M. RADIUS MATTER (ODC 91-309-3352).

A. In August 1983, probate proceedings were initiated by Karen Radius, Esq. ("Radius"), in The Estate of Anson Mark Yaris, Probate No. 42538 (First Circuit Court, State of Hawaii) (the "estate matter"). The sole asset of the Estate was any proceeds to be obtained from a personal injury action against the driver of the automobile which struck the decedent.

B. At the time the probate was opened, Respondent represented the deceased's mother, Trinidad Yaris, who was the plaintiff in a personal injury action previously filed as Elyas Yaris and Trinidad Yanos Yaris v. Clyde and Donna Asinsin, Civil No. 73824 (First Circuit Court, State of Hawaii). Ms. Yaris wished to serve as co-personal representative of the Estate.

C. On August 23, 1987, an Order of Intestacy, Determination of Heirs, and Appointment of Personal Representatives (including Trinidad Yaris as a co-personal representative), as well as Letters of Administration, were issued by Circuit Judge Philip Chun.

D. Radius and Respondent proceeded with the personal injury case, in which a default was entered against the defendant, Clyde Asinsin. In addition, the parties agreed to settle all claims against State Farm Insurance Company for the policy limits

of \$25,000.00, and Radius received a check in that amount in late 1987.

E. Radius and Respondent then agreed that since Radius had filed the original probate petition and had completed the bulk of the work in the personal injury action, Respondent would receive one-half of the attorney's fees from the personal injury action and would prepare the closing documents for the estate matter.

F. Thereafter, Radius forwarded written requests to Respondent regarding the status and final documentation in the estate matter on February 16, 1988, May 17, 1988, November 28, 1988, February 1, 1989, April 6, 1989, December 29, 1989, February 12, 1990, July 27, 1990, December 4, 1990, December 14, 1990, and January 23, 1991.

G. In addition, Radius made numerous telephone requests to Respondent for information beginning in April 1989 and left messages on Respondent's tape recorder or with Respondent's secretary.

H. From approximately January 1988 to September 1990, Respondent failed and neglected to complete the final documentation to conclude the estate matter, and he failed to communicate with Radius regarding the status of the case.

I. Therefore, on September 14, 1990, Radius forwarded an inquiry letter to Petitioner reciting that both she and Respondent had performed legal services for the Yaris in a personal injury and probate action. She recited her understanding with

Respondent that he had agreed to complete the documentation for the estate matter.

J. Radius further advised that Respondent had failed to complete the final accounting in the estate matter, and that he did not return her calls or answer her letters.

K. On September 18, 1990, Petitioner forwarded a letter to Respondent requesting that he submit a detailed written response in this matter on or before October 2, 1990.

L. On September 21, 1990, Respondent appeared before Petitioner in response to the subpoena issued to him in the Judith Pavey matter (ODC 90-138-2956), as aforesaid, and advised that he was practicing law from his residence at 2745-B Booth Road, Honolulu, Hawaii 96813, that he would call Radius and complete the probate documentation by the end of December 1990, and that he would provide a status report to Petitioner on or before October 2, 1990.

M. On October 9, 1990, Petitioner received a letter from Respondent confirming that he had contacted Radius and that he had agreed to complete the necessary documentation in the estate matter by December 10, 1990.

N. On December 26, 1990 and January 17, 1991, Petitioner forwarded to Respondent requests for a status report in the estate matter by regular and certified mail, respectively.

O. Respondent failed and neglected to reply to Petitioner's requests. Therefore, on January 28, 1991, a subpoena duces tecum was issued to Respondent to appear before Petitioner on

February 11, 1991 and to bring his written response in this matter. However, the deputy sheriff was unable to locate Respondent to serve the subpoena upon him.

P. On February 14, 1991, Petitioner received written notice from Radius that Respondent had not completed the work on the estate matter, and she requested Petitioner's assistance in contacting him and/or requesting that he work on the case.

Q. On February 19, 1991, a second subpoena was issued to Respondent in this matter requiring that he appear before Petitioner and bring his written response to Radius' complaint. Once again, however, the deputy sheriff was unable to locate Respondent to serve the subpoena upon him.

R. On March 25, 1991, Respondent delivered a letter to Petitioner in which he admitted that he had missed the agreed-upon deadline for completing the estate matter, but he advised that the relevant documents were in the mail to his client (Trinidad Yaris) for her signature and return.

S. On May 1, 1991, Radius filed with Petitioner a formal complaint against Respondent alleging his continued failure to produce the necessary documents to close the estate matter despite her repeated telephone calls and his repeated promises.

T. On May 31, 1991, a subpoena duces tecum was issued to Respondent to appear before Petitioner on June 17, 1991 and to bring his written response in this matter. Although the subpoena was not served upon Respondent, he duly appeared on June 17, 1991 and submitted a letter providing a status report in the estate

matter and advising that the probate would be closed in a short period of time.

U. Further attempts were made by Petitioner's Investigator, Susan Villella, to contact Respondent and to obtain his entire file in the estate matter in October and November 1991. Finally, on November 25, 1991, Respondent met with Petitioner and provided documentation (including a Petition for Approval of Final Accounts, an Order Approving Compromise of Claim, Inheritance Tax Record, and copies of checks and financial statements, among other things) for forwarding to Radius to close the estate.

V. Respondent's neglect of the foregoing estate matter, including his failure to complete the documentation to close the estate matter over a substantial period of time, and his failure to timely cooperate with Petitioner's investigation of the underlying complaint, constitute violations of the following provisions of the Hawaii Code of Professional Responsibility:

1. DR 6-101(A)(3) (neglect of a legal matter entrusted to him);
2. DR 7-101(A)(1) (failure to seek the lawful objectives of his client through reasonably available means;
3. DR 1-102(A)(5) (conduct prejudicial to the administration of justice; and
4. DR 1-102(A)(6) (conduct adversely reflecting on his fitness to practice law).

III. JUDGE VICTORIA S. MARKS MATTER (ODC 92-210-3583).

A. On May 13, 1992, Respondent failed to appear for a hearing on a Motion for Permanent Custody (the "Motion"), in his capacity as counsel for the mother in a Special Services case titled In the Interest of Bronson Gusman (Family Court of the First Circuit, State of Hawaii).

B. The Motion, which was brought to terminate the mother's rights as a parent for child abuse and neglect, was continued to May 27, 1992 by Judge Victoria S. Marks ("Judge Marks"). In addition, Judge Marks issued an Order for Attorney to Appear ("OTA") which directed Respondent to appear in court on June 3, 1992 to explain his absence from the May 13, 1992 hearing. A copy of the OTA was placed in Respondent's court jacket.

C. On May 27, 1992, Respondent again failed to appear for the continued hearing on the Motion. At that time, Judge Marks appointed substitute counsel for the mother.

D. On June 3, 1992, Respondent failed to appear for the hearing on the OTA, and Judge Marks issued a second OTA which ordered Respondent to appear on June 17, 1992. The second OTA was served upon Respondent by certified mail.

E. On June 17, 1992, Respondent failed to appear for the hearing on the second OTA. However, Judge Marks had not as yet received the "return receipt" from the U. S. Post Office regarding service of the OTA by certified mail. Therefore, a third OTA was issued for Respondent to appear on July 15, 1992, which was also directed to be served upon him by certified mail.

F. On June 17, 1992, Judge Marks' clerk telephoned Respondent at the office telephone number listed in the 1992-93 Hawaii State Bar Association Directory, as well as in the 1992-93 Hawaiian Telephone Yellow Pages Directory (533-3510). The clerk ascertained that the number had been disconnected, and no new office number was available from directory assistance on that date.

G. On June 30, 1992, the clerk again contacted directory assistance and was provided with Respondent's residence telephone number (533-2762). The clerk then contacted Respondent, who advised her that he was not actively engaged in the practice of law and acknowledged that he had not formally withdrawn from his cases.

H. On June 30, 1992, Judge Marks filed with Petitioner a complaint against Respondent concerning his failure to make court appearances, failure to check his court jacket, failure to keep the court and opposing counsel notified of his telephone number and address, and failure to formally withdraw as counsel in the Gusman case.

I. On July 2, 1992 and July 20, 1992, Petitioner forwarded requests to Respondent (by regular mail and certified mail, respectively) for his detailed written response to this matter. Respondent failed and neglected to respond to both of those requests.

J. On July 31, 1992, a subpoena duces tecum was issued to Respondent to appear before Petitioner on August 13, 1992 and to bring his written response in this matter. To date, the sheriff

has been unable to serve the subpoena duces tecum.

K. Respondent's neglect of his client's interests in the Gusman case, including his failure to make court appearances, his failure to check his court jacket, his failure to keep the court and opposing counsel apprised of his telephone number and address, his failure to formally withdraw as counsel, and his failure to timely cooperate with Petitioner's investigation of the underlying complaint, constitute violations of the following provisions of the Hawaii Code of Professional Responsibility:

1. DR 6-101(A)(3) (neglect of a legal matter entrusted to him);
2. DR 7-101(A)(1) (failure to seek the lawful objectives of his client through reasonably available means);
3. DR 2-110(A)(1) (withdrawal from a proceeding without the permission of the tribunal);
4. DR 1-102(A)(5) (conduct prejudicial to the administration of justice); and
5. DR 1-102(A)(6) (conduct adversely reflecting on fitness to practice law).

AGGRAVATING CIRCUMSTANCES

The following factors were considered by the Hearing Committee in aggravation of Respondent's conduct: (a) the existence of multiple offenses; (b) a pattern of misconduct; (c) the existence of a prior offense involving similar misconduct (for which Respondent received an Informal Admonition in 1987); (d) Respondent's failure to cooperate with Petitioner's investigation

and/or to appear in these disciplinary proceedings; and (e) his apparent indifference toward making restitution to the Yees under the judgment obtained against him in the malpractice action.

Based on the foregoing Findings of Fact, Conclusions of Law, and factors in aggravation, the Hearing Committee hereby makes the following:

RECOMMENDATION FOR DISCIPLINE


Respondent should be suspended from the practice of law for a period of two (2) years effective immediately.

In addition, Respondent's future reinstatement to the practice of law should be conditioned upon his: (1) payment of the costs of this disciplinary proceeding; (2) successful completion of the full Hawaii Bar Examination; (3) payment of the judgment obtained filed against him in Janie Yee and Mung Hong Yee v. Clarence F.T. Ching (Civil No. 90-0083-03) in an amount and according to the terms and conditions specified by the Hearing Committee to be appointed in the reinstatement proceedings; and (4) proffer of clear and convincing evidence of his rehabilitation, fitness to practice law, competence and compliance with all

applicable disciplinary or disability orders and rules, and compliance with any other requirements imposed by the court.

DATED: Honolulu, Hawaii, December 22, 1992.


DAVID A. NAKASHIMA, Chairperson


JUDITH A. SCHVETCHUK, Member


CHRIS J. SMITH, Member

No. _____

IN THE SUPREME COURT OF THE STATE OF HAWAII

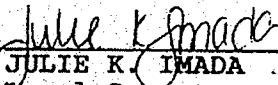
OFFICE OF DISCIPLINARY COUNSEL,	)	ODC 90-138-2956
	)	91-309-3352
Petitioner,	)	92-210-3583
)	
v.	)	CERTIFICATE OF SERVICE
)	
CLARENCE F.T. CHING,)	
)	
Respondent.)	
_____)	

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing DISCIPLINARY BOARD'S REPORT AND RECOMMENDATION FOR THE SUSPENSION OF CLARENCE F.T. CHING FROM THE PRACTICE OF LAW FOR A PERIOD OF TWO (2) YEARS and EXHIBIT A has on this date been served upon Respondent by mailing copies of the same, by both regular and certified mail as follows:

CLARENCE F.T. CHING, ESQ.
2745-B Booth Road
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, March 8, 1993.



JULIE K. IMADA
Legal Secretary
Office of Disciplinary Counsel

NO. 16907

IN THE SUPREME COURT OF THE STATE OF HAWAII

OFFICE OF DISCIPLINARY COUNSEL,	)	ODC 90-138-2956
	)	91-309-3352
Petitioner,	)	91-210-3583
)	
v.)	
)	
CLARENCE F.T. CHING,)	
)	
Respondent.)	

ORDER OF SUSPENSION

FILED
APR 14 1 27 PM '93
CLERK OF THE SUPREME COURT
L. NAKAGAWA

Upon consideration of the Disciplinary Board's Report and Recommendation for the suspension of Respondent Clarence F.T. Ching from the practice of law for two (2) years, with conditions for reinstatement, and Respondent's lack of objection thereto as exhibited by his failure to file an opening brief as permitted by RSCH 2.7(c) before its amendment on March 18, 1993,

IT IS HEREBY ORDERED that Respondent Clarence F.T. Ching is suspended from the practice of law in this jurisdiction for a period of two (2) years, effective immediately.

IT IS FURTHER ORDERED that before Respondent may apply for reinstatement he shall, in addition to all other standards for reinstatement set out in RSCH 2.17(b), (1) pay any award of

I do hereby certify that the foregoing is a full, true and correct copy of the original on file in the office of the Clerk of the Supreme Court of the State of Hawaii.

Dated, at Honolulu, Hawaii, 4-14 A.D. 1993

L. Nakagawa
Clerk, Supreme Court, State of Hawaii

C-42

Case No. BLNR-CC-16-002

costs of this disciplinary proceeding made after submission of an appropriate bill of costs; (2) successfully apply for and complete the Hawaii bar examination; and (3) pay the judgment entered against him in Yee v. Ching, Civil No. 90-0083-03.

DATED: Honolulu, Hawaii, April 14, 1993.

Ronald T. M...

Robert J. Quinn

Steven H. Levinson

Karen L. Blum

Virginia H. Crandall

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

Contested Case Hearing Re Conservation
District Use Application (CDUA) HA-3568
for the Thirty Meter Telescope at the Mauna
Kea Science Reserve, Ka'ohe Mauka,
Hāmakua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-002

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the attached document was served upon the following parties by the means indicated:

Michael Cain
Office of Conservation and Coastal
Lands
1151 Punchbowl, Room 131
Honolulu, HI 96813
michael.cain@hawaii.gov
Custodian of the Records
(ORIGINAL + DIGITAL COPY)

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Coastal Lands
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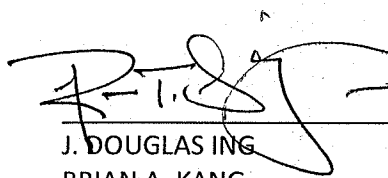
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