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FILED
DEC 09 2010
CLERK U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
BY: Deputy Clerk

ENTERED
DEC 20 2010
CLERK U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
BY: Deputy Clerk

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

In re
THE DISCIPLINARY PROCEEDING OF
OSCAR ACEVEDO

Case No. MP 10-00192

**MEMORANDUM OF DECISION ON
DISCIPLINARY PROCEEDING OF
OSCAR ACEVEDO**

Date: November 12, 2010
Time: 10:00 a.m.
Place: Courtroom 1545
Roybal Federal Building
255 East Temple Street
Los Angeles, CA

On November 12, 2010, the matter of the disciplinary proceeding of Oscar Acevedo ("Acevedo") came on for hearing before the hearing panel designated to hear the matter consisting of the undersigned United States Bankruptcy Judges, the Hon. Ernest M. Robles, Presiding Judge, the Hon. Meredith A. Jury, and the Hon. Catherine E. Bauer ("Panel"). Oscar Acevedo ("Acevado") appeared on his own behalf. Jennifer Braun and Katherine Bunker, Attorneys for the Office of the United States Trustee, appeared for the United States Trustee ("UST").

This disciplinary proceeding was initiated by the Hon. Maureen A. Tighe, United States Bankruptcy Judge, against Acevedo pursuant to this court's General Order 96-05, by a filing a Statement of Cause on July 30, 2010 in cases nos. 1:09-20293-KT, 1:09-20163-KT, 1:09-20174-MT, 1:09-202-KT, 1:09-20297-MT, 1:09-20312-GM, 1:09-20318-MT, 1:09-20374-KT, 1:09-20608-MT, 1:09-21018-KT, 1:09-21109-MT, 1:09-21364-KT, 1:09-21561-GM, 1:09-21722-GM, 1:09-21994-MT, 1:09-22210-GM, 1:09-23082-GM, 1:09-23283-GM and 1:09-23289-KT.

1 Statement of Cause Pursuant to General Order No. 96-05

2 The conduct that gave rise to the Statement of Cause was set forth in Judge
3 Tighe's Memorandum of Decision dated July 20, 2010 ("Memorandum"). That conduct
4 included the filing, between August 8, 2009 and October 8, 2009 by Acevedo of nineteen
5 Chapter 7 bankruptcy cases in the San Fernando Valley Division. In each of these
6 cases, the schedules (except those relating to real property) either stated "none" or listed
7 zeros in nearly every spot requiring an entry. Each of these cases came to Acevedo via
8 Mark Shoemaker ("Shoemaker"), The Law Offices of Mark Shoemaker ("LOMS") and
9 Shoemaker's company Advocate For Fair Lending ("AFFL") (the "Shoemaker Entities").¹

10 On December 29, 2009, the Office of the United States Trustee ("UST") filed an
11 application for an Order to Show Cause in each of the subject cases. The UST, in its
12 application, alleged that Acevedo filled the schedules and statement of financial affairs
13 with inaccuracies and solely to delay creditors by stalling foreclosures on real property.
14 The court granted the UST's application and issued an OSC requiring Acevedo and the
15 Shoemaker Entities to appear and explain: (1) why attorney compensation pursuant to 11
16 U.S.C. § 329 should not be disgorged for inadequate representation of the debtors and
17 for suborning perjury; (2) why further monetary sanctions pursuant to Federal Rule of
18 Bankruptcy Procedure 9011 and 11 U.S.C. § 707(b)(4) should not be imposed against
19 Acevedo for his conduct; and (3) whether there existed an undisclosed fee sharing
20 agreement between the Shoemaker Entities and Acevedo in connection with the
21 bankruptcy filings in violation of § 329 and Rule 2016(b). Shoemaker filed a Response
22 and Opposition to the OSC regarding disgorgement on behalf of Shoemaker Entities.
23 Acevedo filed a limited response. Acevedo's response indicated that he sought to take
24 responsibility for the actions implicated in the OSC.

25 Two evidentiary hearings were held by the court, one on March 3, 2010 and one
26 on April 5, 2010. The March 3, 2010 hearing consisted mainly of testimony by

27 ¹Shoemaker testified that he formed AFFL for the purpose of providing econometric
28 analysis for mortgage loans. Shoemaker was President and owner of AFFL. At the time
of AFFL's formation, Shoemaker also had his own law practice--LOMS. LOMS
consisted of six attorneys who specialized in lender liability issues and foreclosure
litigation. LOMS referred the subject nineteen cases to Acevedo for the filing of
bankruptcies after the clients signed Attorney-Client Retainer Agreements with LOMS
and paid LOMS \$1,000 each as retainers. The matters were then referred to Acevedo
and one of the Shoemaker Entities paid Acevedo \$799.00 per case.

1 Shoemaker. On April 5, 2010, Acevedo took the stand, but exercised his right to plead
2 the Fifth Amendment to nearly all of the questions posed by the UST.

3 In its Memorandum, which this Panel hereby incorporates by reference, the court
4 found that Acevedo had wronged the court and his clients. Acevedo's nineteen
5 improper bankruptcy filings led to delays in the resolution of debtors' cases, a dismissal
6 of two of the nineteen cases (1:09-bk-20293-KT and 1:09-bk-21109-MT), increased costs
7 to the debtors and creditors, and a substantially increased burden on the court. The
8 court found that Acevedo failed to adequately assist the nineteen debtors in the
9 preparation of their statements of current income and expenses and that he did not even
10 ask for any of the debtors' financial information other than that relating to the debtors'
11 loans and foreclosing trustees. He signed the nineteen bankruptcy petitions without
12 performing reasonable investigations into the circumstances that gave rise to the
13 petitions and with knowledge that the information in the schedules filed with the petitions
14 was incorrect. In addition, the debtors each paid \$1,000.00 to the Shoemaker Entities,
15 then the Shoemaker Entities paid Acevedo \$799.00 after the bankruptcy proceedings
16 were underway, which the court found to be an undisclosed fee sharing arrangement.
17 Furthermore, the court drew a negative inference from Acevedo's decision to invoke his
18 Fifth Amendment privilege at the OSC hearing. The court went on to find Acevedo's
19 actions "egregious" and ordered disgorgement of \$15,181.00 (the entire \$799.00
20 Acevedo received for each of the nineteen cases) and sanctions of \$500.00 per case
21 (totally an additional \$9,500.00.00). The court then referred Acevedo to the Panel for
22 further sanctions.²

23 Disciplinary Panel Hearing

24 Attorney Oscar Acevedo's Statement re Disciplinary Proceedings ("Statement")
25 was filed November 1, 2010. The UST filed its Notice of Appearance on October 25,
26 2010.

27 In his statement, and at the hearing before the Panel on November 2, 2010,
28 Acevedo accepted responsibility for his actions. Moreover, Acevedo outlined the steps
he had thus far taken to "make things right," including joining the Central District

² Because the California Bar Court, in Decision 09-TE-19229, declared Shoemaker ineligible to practice law, the court did not refer Shoemaker to the Panel.

1 Consumer Bankruptcy Attorneys Association and attending that organization's continuing
2 education programs, delivering to the UST cashier's checks in the amount of \$799.00
3 each made out to the nineteen debtors and attending the State Bar of California's Ethics
4 School. He also indicated that he had successfully obtained discharges for "several" of
5 his clients since he began practicing bankruptcy in 2008.

6 At the hearing before the panel, the UST confirmed that it had received the
7 sanction payments from Acevedo. However, the UST indicated it had been unable to
8 locate all of the nineteen debtors due to the nature of their situations (i.e., being on the
9 verge of foreclosure when their bankruptcies were filed).

10 The UST also informed the Panel that Acevedo had filed an additional 22
11 bankruptcy cases in the Central District in conjunction with the Shoemaker Entities, and
12 that these other filings had the same or very similar problems. The UST provided the
13 Panel with a list of these additional cases, but with no supporting evidence. The UST
14 urged the Panel to assess additional sanctions against Acevedo as to these additional 22
15 cases.³

16 Moreover, the UST asked the Panel to consider, in aggravation, that Acevedo had
17 demonstrated his ability to properly file and follow through with "real" bankruptcy cases,
18 and that he charged between \$1,500.00 and \$2,500.00 for such cases. Therefore,
19 argued the UST, the \$799.00 fee Acevedo accepted for the nineteen cases was evidence
20 that Acevedo had no intent to follow through with these cases and that they were merely
21 filed to delay creditors from foreclosing.

22 Panel's Findings

23 In his Statement and at the Panel hearing, Acevedo did not dispute the findings of
24 fact and law set forth in the court's Memorandum. Therefore, we will adopt the court's
25 findings as set forth in the Memorandum. In particular, the Panel finds as follows:

26 1. Acevedo violated Federal Rule of Bankruptcy Procedure 9011(b)(1) by filing
27 nineteen bankruptcy cases solely for the improper purpose of delaying foreclosures with
28 no intent to proceed with the bankruptcy cases through to discharge.

³ Since this list of additional cases did not come with any evidentiary support, it was not considered by the Panel.

1 2. Acevedo violated 11 U.S.C. § 707(b)(4)(C) and (D), when he placed his
2 signature on the nineteen bankruptcy petitions without performing reasonable
3 investigations into the circumstances giving rise to the documents and in violation of his
4 duty to represent that, to the best of his knowledge, the information in the schedules filed
5 with the petitions was correct.

6 3. Acevedo violated 11 U.S.C. § 329(a) and Federal Rule of Bankruptcy
7 Procedure 2016(b) in the nineteen cases by failing to disclose the fee arrangement with
8 the Shoemaker Entities.

9 4. Acevedo violated 11 U.S.C. § 329(b) in the nineteen cases by failing to
10 competently perform his duties as an attorney, thereby making the fees paid to him
11 excessive.

12 Further Sanctions

13 Having considered the evidence received at the hearing and the oral and written
14 arguments of the parties, in addition to those sanctions detailed in the Memorandum, the
15 Panel imposes the following further sanctions:

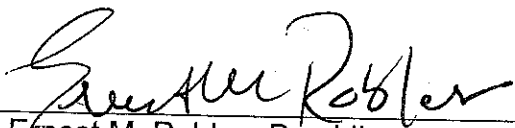
- 16 1. Acevedo should be suspended for one year from practicing before the United
17 States Bankruptcy Court for the Central District of California.
- 18 2. Acevedo should demonstrate to the Chief Bankruptcy Judge that he has
19 successfully rehabilitated himself by taking classes and instruction in
20 bankruptcy law, law office management and legal ethics before he may apply
21 for reinstatement to practice before the United States Bankruptcy Court for the
22 Central District of California.

23 This memorandum decision constitutes the Panel's findings of fact and
24 conclusions of law. A separate order setting forth the Panel's rulings will follow.

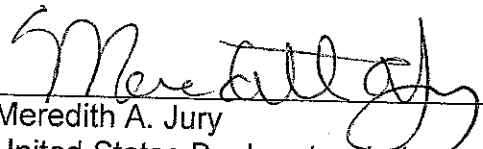
25 A copy of this memorandum and the entered order shall be delivered to each
26 sitting judge of the United States Bankruptcy Court for Central District of California, to the
27 Clerk of the Court for the United States District Court for the Central District of California,
28 and to the State Bar of California.

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Dated: 12/13/10


Ernest M. Robles, Presiding
United States Bankruptcy Judge

Dated: 12-9-10


Meredith A. Jury
United States Bankruptcy Judge

Dated: 12/9/10


Catherine E. Bauer
United States Bankruptcy Judge

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PROOF OF SERVICE/CERTIFICATE OF MAILING

I, Vanessa Keith Garcia, a regularly appointed and qualified clerk of the United States Bankruptcy Court for the Central District of California, do hereby certify that in the performance of my duties as such clerk, I served on each of the parties listed below, at the addresses set opposite their respective names, a copy of the Memorandum of Decision on Disciplinary Proceeding of Oscar Acevedo in the within matter by placing a true copy thereof enclosed in a sealed envelope with postage thereon, fully prepaid, in the United States Mail on December 20, 2010.

Oscar Acevedo, Esq.
Law Offices of Oscar Acevedo
280 N. Montebello Blvd., Suite 101
Montebello, CA 90640

Peter C. Anderson, United States Trustee
Office of the United States Trustee
21051 Warner Center Lane, Suite 115
Woodland Hills, CA 91367
ATTN: Jennifer L. Braun, Esq.
Katherine C. Bunker, Esq.

I declare under penalty of perjury that the foregoing is true and correct.

Date: December 20, 2010

Vanessa Keith Garcia

(Deputy Clerk)