

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of ) Case Nos.: 05-O-03730 (05-O-05112;  
) 06-O-12535); 06-N-10556 (Cons.)  
**ROBERT ARTHUR DEGRELLE, a.k.a** )  
**Robert Arthur Dickrell,** ) **DECISION AND ORDER SEALING**  
) **CERTAIN DOCUMENTS**  
**Member No. 151498** )  
)  
A Member of the State Bar. )  

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**Introduction**<sup>1</sup>

In this original disciplinary proceeding, respondent Robert Arthur Degrell, a.k.a. Robert Arthur Dickrell (respondent) was accepted for participation in the State Bar Court’s Alternative Discipline Program (ADP). As the court has now found that respondent has successfully completed the ADP, the court will recommend to the Supreme Court that respondent be suspended from the practice of law in California for four years, that execution of that period of suspension be stayed, and that he be placed on probation for five (5) years subject to certain conditions, including a thirty-month period of suspension (with credit given for the period of inactive enrollment under section 6233).

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

### **Significant Procedural History**

The State Bar of California, Office of the Chief Trial Counsel (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent on April 10, 2006, in case no. 06-N-10556. The matter was assigned to the Honorable Richard A. Honn.

On June 7, 2006, respondent requested referral to the State Bar Court's Alternative Discipline Program (ADP). Judge Honn granted respondent's request for referral to the ADP.

On June 7, 2006, case no. 06-N-10556 was referred to the ADP before the Honorable Robert Talcott.

On June 16, 2006, an order was filed reassigning this matter to Judge Talcott for all further proceedings.

On June 16, 2006, respondent contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his substance abuse issues.

The State Bar filed a NDC against respondent on September 14, 2006, in case nos. 05-O-03730 (05-O-05112; 06-O-12535), and this matter was assigned to Judge Talcott. However, effective November 17, 2006, and November 21, 2006, case no. 06-N-10556 and case nos. 05-O-03730 (05-O-05112; 06-O-12535), respectively, were reassigned to the undersigned judge.

On December 14, 2006, the court filed an order consolidating case nos. 05-O-03730 (05-O-05112; 06-O-12535) and case no. 06-N-10556.

On January 31, 2007, respondent submitted a declaration to the court which established a nexus between respondent's substance abuse issues and his misconduct in this matter.

Respondent entered into a long-term Participation Plan with the LAP on April 2, 2007.<sup>2</sup>

The parties entered into a Stipulation Re Facts and Conclusions of Law in case nos.

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<sup>2</sup> The terms of respondent's Participation Plan were amended twice in 2009 and again in January 2010.

05-O-03730 (05-O-05112; 06-O-12535); 06-N-10556 (Cons.) on August 14, 2007.

Following briefing by the parties, the court advised the parties of (1) the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP, and (2) the discipline which would be recommended to the Supreme Court if respondent was terminated from, or failed to successfully complete, the ADP. In February 2008, the court memorialized in writing the alternative discipline recommendations in a Confidential Statement of Alternative Dispositions and Orders (Confidential Statement); respondent executed a Contract and Waiver for Participation in the State Bar Court's ADP (Contract);<sup>3</sup> the court signed an order approving the parties' Stipulation; the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP commenced on February 22, 2008.<sup>4</sup>

On February 26, 2008, the court issued an order pursuant to section 6233 enrolling respondent as an inactive member of the State Bar effective July 1, 2008, until further order of the court.<sup>5</sup> The order made clear that respondent would remain on inactive enrollment under section 6233 for at least 30 months and until he provides proof satisfactory to the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the general law in accordance with the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, standard 1.4(c)(ii). Respondent was also ordered to comply with the requirements set forth in rule 9.20 of the California Rules of Court as modified by the court.

Respondent filed a compliance declaration pursuant to rule 9.20 of the California Rules of Court on January 8, 2009.

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<sup>3</sup> The Confidential Statement and Contract were lodged on February 26, 2008.

<sup>4</sup> On February 26, 2008, the court filed an order finding that respondent is accepted into the ADP, and the start date of respondent's participation in the ADP is February 22, 2008.

<sup>5</sup> All further references to standard(s) or std. are to this source.

On December 16, 2010, the court received a Certificate of One Year of Participation in the LAP - Substance Use, which reflects that the LAP was not aware of the use of any unauthorized substances by respondent for at least one year prior to December 16, 2010.

On January 12, 2011, Respondent submitted to the court an initial petition to demonstrate rehabilitation, present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii).<sup>6</sup> The State Bar responded to respondent's petition by stating that they did not possess sufficient facts to determine whether or not to oppose the petition. On March 22, 2011, respondent filed a second amended petition.

On March 28, 2011, the court filed an order setting forth that at a hearing on March 23, 2011, the court found that respondent had shown his rehabilitation, present fitness to practice, and present leaning and ability in the general law by a preponderance of the evidence. Accordingly, the court's order of July 1, 2008, placing respondent on inactive status pursuant to section 6233 was vacated, and the court ordered respondent returned to active status effective March 28, 2011. Also on March 28, 2011, the court filed an order finding that respondent has successfully completed the ADP.

### **Findings of Fact and Conclusions of Law**

#### **I. Culpability Findings**

The parties' Stipulation with respect to case nos. 05-O-03730 (05-O-05112; 06-O-12535); 06-N-10556 (Cons.), including the court's order approving the Stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein.

#### **Case No. 05-O-05112– The Juarez Matter**

In case no. 05-O-05112, respondent stipulated that he: (1) failed to pay promptly, as requested by the client, funds in his possession which the client was entitled to receive, in wilful

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<sup>6</sup> Respondent submitted a supplemental petition on February 18, 2011, and an amended supplemental petition on February 22, 2011.

violation of rule 4-100(B)(4); (2) failed to maintain client funds in a trust account, in wilful violation of rule 4-100(A); (3) committed an act involving moral turpitude, dishonesty or corruption, in wilful violation of section 6106, by misappropriating client funds; (4) failed to render appropriate accounts to the client regarding all funds of the client coming into respondent's possession, in wilful violation of rule 4-100(B)(3); (5) committed acts in wilful violation of rule 1-400(C) by soliciting a prospective client with whom the member had no family or prior professional relationship ; (6) committed an act in wilful violation of 3-310(C)(1) by accepting representation of more than one client in which the interests of the clients potentially conflicted, without the informed written consent of each client; (7) failed to keep his client reasonably informed of significant developments relating to the employment or representation, in wilful violation of section 6068, subdivision (m); and (8) failed to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in wilful violation of rule 3-700(A)(2).

**Case No. 05-O-03730**

In case no. 05-O-03730, respondent committed acts in wilful violation of section 6068, subdivision (a) by holding himself out as a licensed attorney while he was suspended or otherwise not entitled to practice law, in violation of sections 6125 and 6126.

**Case No. 06-O-12535**

In case no. 06-O-12535, respondent failed to comply with the terms and conditions of his disciplinary probation imposed by the Supreme Court in matter S108152 (State Bar Court case no. 04-PM-15495), in wilful violation of section 6068, subdivision (k).

**Case No. 06-N-10556**

In case no. 06-N-10556, respondent stipulated that he willfully disobeyed or violated a court order by failing to file an affidavit of compliance regarding rule 955 of the California Rules

of Court,<sup>7</sup> in conformity with the Supreme Court Order in matter S108152 (State Bar Court case no. 04-PM-15495) and the requirements of rule 955, subdivision (c).

## **II. Aggravation<sup>8</sup>**

### **Prior Record of Discipline (Std. 1.2(b)(i).)**

In aggravation, respondent has a record of three prior impositions of discipline.

#### **Case No. 98-O-01017**

Effective June 16, 2000, in case no. 98-O-01017, respondent was publicly reprovved with conditions for two years. Discipline in this matter was based upon findings that: (1) respondent failed to pay client funds promptly, in wilful violation of rule 4-100(B)(4), and (2) respondent collected an illegal fee, in wilful violation of rule 4-200(A).

#### **Case Nos. 01-O-02431; 01-O-03015**

Effective October 4, 2002, in case nos. 01-O-02431 and 01-O-03015, respondent was placed on probation for four years on conditions that included an actual suspension of 60 days. Discipline in this matter was based upon findings that respondent: (1) recklessly failed to perform with competence, in violation of rule 3-110(A), (2) failed to promptly pay funds to his client and medical providers, in wilful violation of rule 4-100(B)(4), and (3) committed acts involving moral turpitude, dishonesty or corruption, in two counts, in wilful violation of section 6106, by making misrepresentations.

#### **Case No. S108152 (04-PM-15495)**

Effective September 3, 2005, in Supreme Court matter S108152 (State Bar Court case no. 04-PM-15495), respondent's earlier probation was revoked, and respondent was placed on probation for four years on conditions that included an actual suspension for one year (with

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<sup>7</sup> Rule 955 has been renumbered as rule 9.20.

<sup>8</sup> All further references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

credit for involuntary inactive enrollment). Discipline in this matter was based upon a finding that respondent violated section 6068, subdivision (k) for failing to comply with probation terms.

**Multiple Acts/Pattern of Misconduct (Std. 1.2(b)(ii).)**

Respondent engaged in multiple acts of wrongdoing and his acts demonstrate a pattern of misconduct.

**Harm to Client (Std. 1.2(b)(iv).)**

As an additional factor in aggravation, the parties stipulated that respondent's misconduct significantly harmed his clients. Clients were harmed by the misappropriation of \$9,750 of their settlement funds and the nonpayment of their medical bills.

**III. Mitigation**

**Candor/Cooperation to Victims/State Bar (Std. 1.2(e)(v).)**

In mitigation, the parties stipulated that respondent displayed spontaneous cooperation and candor with the State Bar during disciplinary investigation and proceedings.

**Extreme Emotional/Physical Difficulties (Std. 1.2(e)(iv).)**

In addition, it is appropriate to consider respondent's successful completion of the ADP as a further mitigating circumstance in this matter.

**Discussion**

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

In determining the appropriate alternative discipline recommendations if respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by the parties, as well as certain

standards and case law. In particular, the court considered standards 1.2, 1.3, 1.4, 1.5, 1.6, 1.7(b), 2.2(a), 2.2(b), 2.6, and 2.10 and *In the Matter of Blum* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170; *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602; *Kennedy v. State Bar* (1989) 48 Cal.3d 610; *Waysman v. State Bar* (1986) 41 Cal.3d 452; *In the Matter of Dyson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280; *Howard v. State Bar* (1990) 51 Cal.3d 215; *Weller v. State Bar* (1989) 49 Cal.3d 670; *In the Matter of Mapps* (1990) 1 Cal. State Bar Ct. Rptr. 1; and *Stevens v. State Bar* (1990) 51 Cal.3d 283.

Because Respondent has now successfully completed the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the lower level of discipline, set forth more fully below.

### **Recommendations**

It is hereby recommended that respondent Robert Arthur Degrell, State Bar Number 151498, be suspended from the practice of law in California for four years, that execution of that period of suspension be stayed, and that he be placed on probation<sup>9</sup> for a period of five years subject to the following conditions:

1. Respondent must be actually suspended from the practice of law in the State of California for the first 30 months of his probation (with credit given for inactive enrollment, which was effective July 1, 2008, through March 27, 2011 (Bus. & Prof. Code, § 6233).)<sup>10</sup>
2. During the probation period, respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California;
3. Within 10 days of any change, respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California

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<sup>9</sup> The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

<sup>10</sup> Respondent demonstrated to the court, by a preponderance of evidence, his rehabilitation, present fitness to practice and present learning and ability in the general law in connection with his return to active status following his inactive enrollment under section 6233. As such, the court will not recommend that respondent remain suspended until he complies with the requirements of standard 1.4(c)(ii).



(Office of Probation), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;

4. Within 30 days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person or by telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request;
5. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the period of probation and no later than the last day of the probation period;

6. Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, respondent must furnish to the monitor such reports as may be requested in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor;
7. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation which are directed to respondent personally or in writing relating to whether respondent is complying or has complied with the probation conditions;
8. Within one year of the effective date of the discipline herein, respondent must provide, to the Office of Probation, satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session;
9. Within one year of the effective date of the discipline herein, respondent must attend and satisfactorily complete the State Bar's Client Trust Accounting School; and (2) provide satisfactory proof of completion of that program to the California State Bar's Office of Probation. The program is offered periodically at either 180 Howard Street, San Francisco, California 94105-1639 or at 1149 South Hill Street, Los Angeles, California 90015. Arrangements to attend the program must be made in advance by calling (213) 765-1287 and by paying the required fee. This condition of probation is

separate and apart from respondent's California Minimum Continuing Legal Education (MCLE) requirements; accordingly, he is ordered not to claim any MCLE credit for attending and completing this program. (Accord, Rules Proc. of State Bar, rule 3201);

10. During each calendar quarter in which respondent receives, possesses, or otherwise handles funds or property of a client (as used in this probation condition, the term "client" includes all persons and entities to which respondent owes a fiduciary or trust duty) in any manner, respondent must submit, to the State Bar's Office of Probation with the probation report for that quarter, a certificate from a California Certified Public Accountant certifying:
  - a. whether respondent has maintained a bank account that is designated as a "Trust Account," "Clients' Funds Account," or words of similar import in a bank in the State of California (or, with the written consent of the client, in any other jurisdiction where there is a substantial relationship between the client or the client's business and the other jurisdiction);
  - b. whether respondent has, from the date of receipt of the client funds through the period ending five years from the date of appropriate disbursement of the funds, maintained:
    1. a written ledger for each client on whose behalf funds are held that sets forth:
      - a. the name and address of the client;
      - b. the date, amount and source of all funds received on behalf of such client,
      - c. the date, amount, payee and purpose of each disbursement made on behalf of such client, and
      - d. the current balance for the client; and
    2. a written journal for each bank account that sets forth:
      - a. the name of the account,
      - b. the name and address of the bank where the account is maintained,
      - c. the date, amount and client or beneficiary affected by each debit and credit, and
      - d. the current balance in the account; and
    3. all bank statements and cancelled checks for each bank account; and
    4. each monthly reconciliation (balancing) of (1), (2), and (3), above, and if there are any differences, an explanation of each difference; and
  - c. whether respondent has, from the date of receipt of all securities and other properties held for the benefit of a client through the period ending five years

from the date of appropriate disbursement of the securities and other properties, maintained a written journal that specifies:

1. each item of security and property held,
  2. the person on whose behalf the security or property is held,
  3. the date of receipt of the security or property,
  4. the date of distribution of the security or property, and
  5. the person to whom the security or property was distributed;
- d. If respondent does not receive, possess, or otherwise handle client funds or property in any manner during an entire calendar quarter and if respondent includes, in his probation report for that quarter, a statement to that effect under penalty of perjury under the laws of the State of California, respondent is not required to submit a certification from a Certified Public Accountant for that quarter.

The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct of the State Bar of California;

11. Respondent must pay restitution to Moises Juarez and Josephina Hurtado-Juarez jointly in the amount of \$9,750 plus 10 percent interest per annum from October 1, 2000, until paid (or to the Client Security Fund to the extent of any payment from the fund to either Moises Juarez or Josephina Hurtado-Juarez, plus interest and costs, in accordance with Business and Professions Code section 6140.5). Any restitution to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d). To the extent the Client Security Fund has paid only principal amounts, respondent will still be liable for interest payments to Moises Juarez and Josephina Hurtado-Juarez as set forth above. With each written quarterly report required herein, respondent must provide to the Office of Probation satisfactory proof of all restitution payments made by him during that quarter or applicable reporting period. To the extent that respondent has paid any restitution prior to the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent will be given credit for such payments provided satisfactory proof of such is or has been shown to the State Bar's Office of Probation; and
12. Respondent must comply with all provisions and conditions of his Participation Agreement/Plan with the Lawyer Assistance Program (LAP) and must provide the Office of Probation with certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of his Participation Agreement/Plan to the Office of Probation. Respondent must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent's participation in the LAP and his compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory certification of completion of the LAP.

At the expiration of the period of probation, if Robert Arthur Degrell has complied with all conditions of probation, the four-year period of stayed suspension will be satisfied.

### **Multistate Professional Responsibility Examination**

It is further recommended that Robert Arthur Degrell be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

### **California Rules of Court, Rule 9.20**

It is not recommended that Robert Arthur Degrell be ordered to comply with the requirements of rule 9.20, California Rules of Court, as he complied with the requirements set forth in rule 9.20, as modified by the court, in connection with his inactive enrollment pursuant to section 6233.

### **Costs**

It is 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. It is further recommended that costs be paid with respondent's membership fees for the year 2012. If respondent fails to pay costs as described above, or as may be modified by the State Bar Court, costs are due and payable immediately.

### **Direction Re Decision and Order Sealing Certain Documents**

The court directs a court case administrator to file the parties' Stipulation Re Facts and Conclusions of Law and this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 5.388(c) (former rule 806(c)) of the Rules of Procedure of the State Bar of

California (Rules of Procedure),<sup>11</sup> all other documents not previously filed in this matter are ordered sealed pursuant to rule 5.12 (former rule 23) of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their official duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

**IT IS SO ORDERED.**

Dated: June 20, 2011.

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RICHARD A. PLATEL  
Judge of the State Bar Court

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<sup>11</sup> Effective January 1, 2011, new Rules of Procedure of the State Bar of California became effective.