

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of ) Case No.: 07-C-12861-LMA  
JUSTIN G. AREL, ) DECISION  
Member No. 173625, )  
A Member of the State Bar. )

I. Introduction

This matter is before the court on order of reference filed by the Review Department of the State Bar Court on November 21, 2007 for a hearing and decision as to whether the facts and circumstances surrounding a misdemeanor violation of Vehicle Code Section 23153(b) of which respondent Justin G. Arel (respondent) was convicted involved moral turpitude or other misconduct warranting discipline and, if so found, a recommendation as to the discipline to be imposed.

The Office of the Chief Trial Counsel of the State Bar of California was represented by Deputy Trial Counsel Maria Oropeza. Respondent was represented by Howard R. Melamed.

As addressed *post*, the facts and circumstances surrounding the present case do involve moral turpitude. Consequently, the court recommends, among other things, that respondent be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for two years with conditions, including an actual suspension of 60 days from the practice of law.

## **II. Pertinent Procedural History**

On October 1, 2007, respondent plead guilty to and was subsequently convicted of a misdemeanor violation of Vehicle Code section 23153(b) [driving under the influence and causing bodily injury to another person] with two enhancements: (1) Vehicle Code section 23572 [minor child in the vehicle] and (2) Vehicle Code section 23577(a) [refusal to submit to a chemical test].

The State Bar reported the conviction to the Review Department on November 9, 2007. In accordance with the Review Department's subsequent order, this case ultimately proceeded to trial in the Hearing Department on June 10 and 11, 2008. The parties filed a joint stipulation of facts on June 11, 2008. After filing of post-trial briefs, the court took the matter under submission for decision on August 1, 2008.

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

### **A. Jurisdiction**

Respondent was admitted to the practice of law in the State of California on December 12, 1994, and has since been a member of the State Bar of California.

### **B. Findings of Facts**

On May 27, 2007, at 1:51 in the morning, Officer Russell Veilleaux of the Redding Police Department heard dispatch broadcasting a reported rollover traffic collision on Quartz Hill Road.

Officer Veilleaux responded to the call and when he arrived at 2:01 a.m., Officers Short and Moore were already present along with medical and fire personnel. The overturned vehicle was resting on its roof in the northbound lane of Quartz Hill Road. Both driver's side doors were open. The roof on the passenger side of the vehicle was partially collapsed. The keys were still

in the ignition and Officer Veilleaux observed a child safety seat in the left rear seat. None of the vehicle's occupants were at the scene.

At the location of the collision, Quartz Hill Road has a single lane in each direction of travel, divided by double yellow lines. Each lane is ten feet wide and has a paved shoulder that is approximately one foot wide. The shoulder of the roadway has a three to four inch drop off from the paved portion to a dirt and gravel shoulder.

Officer Veilleaux observed a scuff mark where the vehicle left the roadway onto the right shoulder of the roadway. Additional scuff marks could be observed in the roadway between the location where the vehicle left the roadway and where it came to rest. The distance between where the vehicle left the roadway and its final place of rest was approximately 75 feet.

A DMV records check was run and Officers Cowan and Moore were dispatched to the respondent's home address. Officer Cowan and Moore arrived at the home and radioed Officer Veilleaux informing him that there was no answer at the door and all the lights were turned off.

Officer Veilleaux recovered a purse from the passenger compartment of the vehicle. The purse contained identification belonging to respondent's wife, Julian Arel. Officer Veilleaux located a cellular phone in a purse. He examined the call history and called the number identified as "home." Upon calling the number, he spoke to respondent. Officer Veilleaux asked to speak with Julian Arel. Respondent told him that Julian Arel was on her way to the hospital.

Officer Veilleaux asked respondent if he was at the house. Respondent confirmed that he was at the house along with his two children. Officer Veilleaux informed respondent that Redding Police officers were at the door and that he needed to go out the front door to contact them. Respondent acknowledged these instructions.

Officer Moore was subsequently informed by Officer Veilleaux that he had made telephonic contact with respondent, who was inside the house. Officer Cowan continued

knocking on the door for approximately three to five minutes. Officer Cowan announced to the occupants of the house that they were the police department and that they needed to speak with the people involved in the collision. Still nobody answered the front door.

After approximately five minutes, Officer Moore radioed Officer Veilleaux and informed him that no-one was responding to the door. Officer Veilleaux attempted to again contact the residence via the cell phone, however, there was no answer.

Officer Cowan was informed that neither Mercy Medical Center nor Shasta Regional Center had a patient by the name of Julian Arel. Due to the exigency of the situation, i.e. the occupants' possible need for immediate medical attention, Officer Cowan advised the occupants that the officers would force entry into the residence if the occupants did not open the door. Officer Cowan waited approximately thirty seconds; but still no one answered the door.

Officers Cowan and Moore forced entry into the residence and contacted respondent, along with his son (age five), and his daughter (age three). Respondent was instructed to sit on the couch while Officer Cowan checked on the welfare of the children, who were in the master bedroom.

Officer Veilleaux arrived at the residence and contacted respondent. Officer Veilleaux asked respondent where his wife was located. Respondent informed Officer Veilleaux that his wife had been transported to the hospital by a neighbor.

Officer Veilleaux asked respondent why his wife had been taken to the hospital. Respondent did not respond to the question, and instead asked why the front door had been kicked in.

Officer Veilleaux explained to respondent that the forced entry was required due to the exigent circumstances and to check on the welfare of the children who may have been involved in the collision.

Officer Veilleaux attempted to continue to ask questions of respondent relating to the collision. Respondent informed Officer Veilleaux that he wasn't driving any vehicle. Respondent repeatedly told Officer Veilleaux that he was at home sleeping.

Officer Veilleaux located the children in the master bedroom huddled together in the bed.<sup>1</sup> Officer Veilleaux asked respondent's son if he was in the vehicle at the time of the collision. Respondent's son confirmed that both he and his sister were in the vehicle when it overturned. Respondent's son told Officer Veilleaux "we rolled over."

Officer Veilleaux asked respondent's son if mommy or daddy was driving the vehicle. Respondent's son corrected Officer Veilleaux by stating "there is only one steering wheel in the car." Officer Veilleaux then asked respondent's son if mommy or daddy was driving. Respondent's son told Officer Veilleaux that "daddy was driving the car."

Respondent's son stated that they were coming home from Grandma's house. Officer Veilleaux asked respondent's son how they had gotten home after the collision. Respondent's son stated that their neighbor had picked them up and drove them home.

Officer Veilleaux then confronted respondent with the statements made by his son. Respondent stated his son is five years old and could not have made those statements. Respondent again denied driving any vehicle.

Officer Veilleaux detected the strong odor of an alcoholic beverage on respondent's breath. He observed that respondent's eyes were red and glassy. He observed that respondent swayed front to back and side to side as he was standing in place. He also observed that respondent's speech was very slurred.

Officer Veilleaux attempted to obtain respondent's statements for the interview portion of the intoxication report. Respondent refused to answer any questions. Respondent continually

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<sup>1</sup> The children were later transported to the hospital where it was determined that they were not physically injured in the collision.

demanded to know why Redding Police Officers had forced entry into his residence. Respondent continued to state that he was not driving any vehicle.

Officer Veilleaux informed respondent that he wanted to subject respondent to some Field Sobriety Tests (FST's) to determine if he was intoxicated while operating a motor vehicle. Respondent performed poorly on two field sobriety tests and refused to perform a third test.

Based on the objective symptoms of alcohol intoxication, respondent's poor performance in two field sobriety tests, and his son's statement that he was driving the vehicle, respondent was placed under arrest and transported to Shasta County Jail.

Upon arrival at the jail, Officer Veilleaux informed respondent that he was required to provide either a breath or blood sample to determine his blood-alcohol concentration. Respondent informed Officer Veilleaux that he would not provide a breath or blood sample. Officer Veilleaux transported respondent to the Redding Police Department for the purpose of obtaining a forced blood draw.

At the Redding Police Department, Officer Veilleaux read respondent the chemical test refusal admonition. Officer Veilleaux again asked respondent if he would take a breath test; respondent sighed out loud, but made no statement. Officer Veilleaux asked respondent if he would submit to a blood test, respondent answered "No."

Respondent was subsequently seated in a restraint chair. As the phlebotomist prepared to obtain a blood sample, respondent then stated that he did not like needles and asked to provide a breath sample. Officer Veilleaux informed respondent that he was no longer able to choose which test he could perform and respondent's blood sample was taken. The results subsequently indicated that respondent's blood alcohol concentration was 0.12%.

While respondent was in the custody of the Redding Police Department, Officer Cowan went to Mercy Medical Center. Officer Cowan made contact with Julian Arel at approximately 3:00 a.m. Mrs. Arel was in the emergency room for injuries received during the traffic collision.

Officer Cowan observed an injury to Mrs. Arel's head. The injury was on the top of her head and was approximately one and one half inches in diameter and was bleeding. The injury removed a large portion of skin from Mrs. Arel's scalp.

Officer Cowan asked Mrs. Arel what had taken place before and during the collision. Mrs. Arel provided the following information. Respondent and Mrs. Arel went to an office party at approximately 6:30 p.m. They left at approximately 1:00 a.m. Mrs. Arel saw respondent drink wine; however, she did not know how much he had to drink throughout the entire evening. After picking up their children from the babysitter's house, they were driving home on Quartz Hill Road when respondent drifted off the side of the road, causing him to lose control of their vehicle. The vehicle then rolled over and ended up on its roof.

On July 18, 2007, respondent was charged in a four-count felony criminal complaint with violations of Vehicle Code sections 23153(a) [driving under the influence of alcohol/drugs causing injury] and 23153(b) [driving while having .08% or more of alcohol in his blood, causing injury], and two counts of child abuse pursuant to Penal Code section 273a(a). Respondent's criminal complaint also contained two enhancements of Vehicle Code section 23558 [causing bodily injury to more than one victim].

On October 1, 2007, respondent pled guilty to a misdemeanor violation of Vehicle Code section 23153(b) with enhancements of Vehicle Code section 23572 [minor child in the vehicle] and Vehicle Code section 23577(a) [refusal to submit to a chemical test].

Respondent was placed on a 36-month probation term and ordered, among other things, to serve 34 days in county jail and to complete a first-offender alcohol program.

### **C. Conclusions of Law**

Respondent's conviction is final and conclusively establishes that respondent violated section 23153(b) of the vehicle code with enhancements of vehicle code section 23572 [minor child in the vehicle] and vehicle code section 23577(a) [refusal to submit to a chemical test].

An attorney's conviction for driving under the influence does not per se establish moral turpitude. (*In re Kelley* (1990) 52 Cal.3d 487, 494.) Therefore, to determine if moral turpitude exists, the court must consider the particular circumstances surrounding the conviction. (*Ibid.*)

In the present case, respondent's conviction for driving under the influence of alcohol and causing bodily injury to another person involved an added element of deceit. Respondent repeatedly lied to police officers with the intent to conceal the fact that he was driving while under the influence of alcohol at the time of the accident. Respondent continued to lie even after he was confronted with the truthful statements of his five-year old son.

Respondent's repeated efforts to deceive the police officers demonstrate deceitful acts for his own personal gain. It is of particular concern that at a time when respondent's wife was in the hospital and his two young children had yet to be examined for internal injuries, respondent's sole focus was to convince the officers that he was not the driver. Consequently, the court finds that the facts and circumstances surrounding respondent's conviction for driving under the influence of alcohol involve dishonesty and moral turpitude.

## **IV. Mitigating and Aggravating Circumstances**

### **A. Mitigation**

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof.



Misconduct, standard 1.2(e).)<sup>2</sup> Here, respondent has proven the following mitigating circumstances.

**1. No Prior Record of Discipline**

Respondent has no prior record of discipline in over twelve years of practice prior to the present misconduct. (Std. 1.2(e)(i).)

**2. Community Service**

Respondent's extensive community service also warrants consideration as a mitigating circumstance. Respondent currently serves on the board of trustees of Mercy Foundation. He also has served on the board of the Shasta College Foundation and on the Advisory Council of the Northern Valley Catholic Social Service. Additionally, respondent has volunteered his time and service to the Redding West Rotary for over ten years.

**3. Demonstration of Good Character**

Nine witnesses testified regarding respondent's good character.<sup>3</sup> (Std. 1.2(e)(vi).) Those nine witnesses testified as follows:

**a. Dr. Bruce Farrell, DDS**

Dr. Bruce Farrell has known respondent since he was four years old. Dr. Farrell is in the Rotary Club in Redding with respondent, and currently serves as that organization's president. Dr. Farrell testified that respondent is honest and has outstanding integrity. Dr. Farrell stated that respondent does not have a history of making poor decisions, and that this is the first mistake that respondent has made. Dr. Farrell is aware of the facts and circumstances surrounding respondent's misconduct and has found respondent to be extremely remorseful.

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<sup>2</sup> All further references to standard(s) are to this source.

<sup>3</sup> The testimony of five of these witnesses was admitted via their deposition transcripts.

**b. Jason Waybright**

Jason Waybright is a financial planner from Redding and has known respondent for about ten years. He serves on the Mercy Foundation Board with respondent. Mr. Waybright testified regarding respondent's good reputation in the financial planning community, both before and after the present misconduct. Mr. Waybright is aware of the facts and circumstances surrounding respondent's misconduct, but notes that respondent's honesty and veracity are still intact.

**c. Dennis Kenny, Esq.**

Dennis Kenny has been an attorney since 1996 and has been respondent's best friend since high school. Mr. Kenny testified to respondent's honesty and integrity. Mr. Kenny has spoken to respondent at length about the present misconduct and understands that respondent is embarrassed and humiliated. Mr. Kenny describes the present misconduct as aberrational conduct of one evening.

**d. John Kenny, Esq.**

John Kenny, Dennis Kenny's father, is an attorney from Redding. John Kenny has known respondent since he was a freshman in high school. John Kenny testified to respondent's good reputation for truthfulness in the community of Redding, both before and after the present misconduct. John Kenny is aware of the facts and circumstances surrounding respondent's misconduct, but believes that respondent's misconduct was aberrational.

**e. Richard W. Maxion, Esq.**

Richard W. Maxion is an attorney in Redding. He has known respondent for approximately ten years and has always thought very highly of him. Mr. Maxion represented respondent in the underlying criminal matter. Mr. Maxion testified that respondent has high integrity as a lawyer and a good reputation for honesty. Knowing the facts and circumstances

surrounding respondent's misconduct, Mr. Maxion's opinion that respondent is an honest individual has not changed.

**f. Mark H. Cibula, Esq.**

Mark H. Cibula is an attorney and a Shasta County Supervisor in Redding. Mr. Cibula previously served as mayor and member of the city council for the City of Redding. Mr. Cibula is also a past president of the Shasta-Trinity County Bar Association. Mr. Cibula has known respondent for about 25 years. Mr. Cibula reviewed the underlying police report and is aware of the general facts and circumstances surrounding respondent's misconduct. It is Mr. Cibula's opinion that an individual's behavior following a traumatic accident is not really a touchstone on the basis of which to judge their character. Therefore, Mr. Cibula's belief in respondent's good reputation for honesty and veracity has not wavered.

**g. D. Scott Thompson**

D. Scott Thompson is the executive director of the Shasta College Foundation. Mr. Thompson has known respondent for several years and is aware of the general facts and circumstances surrounding respondent's misconduct. Mr. Thompson testified that respondent has a solid reputation in the Redding community for honesty and veracity, both before and after the present misconduct.

**h. Michael Pohlmeier**

Michael Pohlmeier is a financial planner in Redding. He has also served on the city council for the City of Redding for several years. Mr. Pohlmeier practiced law as an attorney in Missouri for over seventeen years, and, prior to that, as a JAG officer for the United States Army for four years. He has known respondent for nearly thirteen years and has served with respondent on the Mercy Foundation board. Mr. Pohlmeier is aware of the general facts and circumstances surrounding the present misconduct. Mr. Pohlmeier found respondent to be

totally and completely shamed and humiliated by the events of that evening. Despite the present misconduct, Mr. Pohlmeyer still has high regard for respondent's integrity.

**i. Bradley Lewis**

Bradley Lewis is an insurance and investment broker in Redding. He testified that respondent is honest and straightforward,<sup>4</sup> and that respondent has expressed a great deal of remorse regarding the instant misconduct. Mr. Lewis is aware of the general facts and circumstances surrounding the present misconduct, but still believes that respondent is honest, straightforward, and reliable.

**B. Aggravation**

The court finds no factors in aggravation.<sup>5</sup> (Std. 1.2(b).)

**V. Discussion**

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; standard 1.3.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline.

Standard 3.2 provides that the final conviction of a member of a crime which involves moral turpitude, either inherently or in the facts and circumstances surrounding the crime's commission shall result in disbarment. Only if the most compelling mitigating circumstances

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<sup>4</sup> He has known respondent since at least 1995.

<sup>5</sup> The court considered respondent's dishonest conduct with the Redding Police Department as a fact and circumstance involved in the present misconduct, rather than an aggravating circumstance. To again consider this factor in aggravation would improperly give it double weight. (*In re Duxbury* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61, 68.)

clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a two-year actual suspension, prospective to any interim suspension imposed, irrespective of mitigating circumstances.

The standards, however, “do not mandate a specific discipline.” (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.) It has long been held that the court is “not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, [the Supreme Court is] permitted to temper the letter of the law with considerations peculiar to the offense and the offender.” (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) Yet, while the standards are not binding, they are entitled to great weight. (*In re Silverton* (2005) 36 Cal.4th 81, 92.)

In a conviction referral proceeding, “discipline is imposed according to the gravity of the crime and the circumstances of the case.” (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 510.) An attorney’s commission of a crime involving moral turpitude is always a matter of serious consequence but does not always result in disbarment; the sanction imposed is determined in each case depending on the nature of the crime and the circumstances presented by the record. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 103.)

The State Bar recommended that respondent be actually suspended for 90 days. In support of its position, the State Bar relied on *In re Carr* (1988) 46 Cal.3d 1089, *In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, and *Alkow v. State Bar* (1966) 64 Cal.2d 838. Each of these cases involves discipline relating to a conviction for driving under the influence of alcohol or while physically impaired.

In *Carr*, the attorney was convicted of two separate violations of driving under the influence of alcohol. In an abbreviated decision, the Supreme Court determined that these

convictions did not involve moral turpitude and suspended Carr for two years, stayed, with a five year probationary period including a six month actual suspension.<sup>6</sup>

In *Anderson*, an attorney was convicted, among other things, of four separate counts of driving under the influence of alcohol over a six-year period. The Review Department found that Anderson's misconduct did not constitute moral turpitude, but did demonstrate conduct warranting discipline. In aggravation, Anderson was uncooperative and aggressive towards the arresting officers and had been twice disciplined in the past.<sup>7</sup> In mitigation, Anderson presented "impressive character evidence." (*In the Matter of Anderson, supra*, 2 Cal. State Bar Ct. Rptr. 208, 213.) The Review Department recommended a one-year stayed suspension, a three-year probation, and a 60-day actual suspension.

In *Alkow*, the California Supreme Court found that an attorney's manslaughter conviction involved moral turpitude. The facts and circumstances in *Alkow* are as follows. After the expiration of his driver's license, Alkow attempted to secure another license, but was refused based on his defective vision. During the next two years, Alkow was convicted on more than twenty traffic violations, including at least eleven convictions for driving without a license. Despite being on criminal probation for driving without a license, Alkow continued to drive until one evening he struck and killed a woman pedestrian in Santa Ana. In aggravation, Alkow had been previously suspended from the practice of law for three years in a case involving misappropriation, misrepresentations to his clients, and the issuance of bad checks. Additionally,

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<sup>6</sup> The court notes that the attorney in *Carr* had a prior record of discipline, stemming from two convictions (from 1981 and 1982) relating to his possession and manufacturing of phencyclidine (PCP), which resulted in, among other things, a 60-day actual suspension. This fact can be gleaned from the Review Department's analysis in Carr's subsequent discipline matter- *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108, 115.

<sup>7</sup> Anderson's prior record of discipline consisted of a private reproof for failing to perform services for a client and a public reproof for failing to communicate with his clients, failing to use reasonable diligence on their behalf, and failing to promptly return his clients' files following his withdrawal.

the Court noted that Alkow was evasive and showed a lack of candor during the State Bar proceedings. No mitigating factors were noted. The Supreme Court ordered that Alkow be suspended for six months.

The instant case is not truly on point with *Carr*, *Anderson*, or *Alkow*. Of these three cases, the court finds that the present case shares similar qualities with *Alkow* and *Anderson*.

The common thread between the present case and *Alkow* is that both cases involve a driving-related offense coupled with a finding of moral turpitude. That being said, the present case is not nearly as egregious as *Alkow*.

The present case, unlike *Alkow*, contains substantial mitigation and no aggravation. Additionally, the facts and circumstances establishing moral turpitude in the present case do not rival those found in *Alkow*. For here, respondent's conduct establishing moral turpitude occurred over the course of one evening, while the facts and circumstances found in *Alkow* establish that although Alkow knew his vision was defective, he continued to drive for a period of years despite eleven convictions for driving without a license and probationary conditions requiring him not to drive.

*Anderson* and the present case also have a common thread. Both cases involve a conviction for driving under the influence of alcohol. While *Anderson* does not include a finding of moral turpitude, it does involve an attorney with four convictions for driving under the influence of alcohol and considerably more aggravation. Therefore, although the present case involves moral turpitude, the court finds that it does not warrant more discipline than that which was ordered in *Anderson*.

Consequently, the court recommends that respondent be suspended for one year, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation as noted *post*, including a 60-day actual suspension.

## VI. Recommended Discipline

Accordingly, it is recommended that **Justin G. Arel** be suspended from the practice of law for one year, that execution of the suspension be stayed, and that respondent be placed on probation for two years, with the following conditions:

1. Respondent must be actually suspended from the practice of law for the first 60 days of probation;
2. During the period of probation, respondent must comply with the State Bar Act and the Rules of Professional Conduct;
3. 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. If the first report will cover less than thirty (30) days, the report must be submitted on the next following quarter date, and cover the extended period.

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

4. 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 conditions contained herein;

5. Within ten (10) days of any change, respondent must report to the Membership Records Office of the State Bar, 180 Howard Street, San Francisco, California 94105-1639, **and** to the Office of Probation, all changes of information, including current office address and



telephone number, or if no office is maintained, the address to be used for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;

6. Within one year after the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, given periodically by the State Bar at either 180 Howard Street, San Francisco, California, 94105-1639, or 1149 South Hill Street, Los Angeles, California, 90015, and passage of the test given at the end of the session. Arrangements to attend Ethics School must be made in advance by calling (213) 765-1287, and paying the required fees. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School (Rules of Proc. of State Bar, rule 3201.);

7. The period of probation must commence on the effective date of the order of the Supreme Court imposing discipline in this matter; and

8. At the expiration of the period of this probation, if respondent has complied with all the terms of probation, the order of the Supreme Court suspending respondent from the practice of law for one year will be satisfied and that suspension will be terminated.

It is also recommended that respondent take and pass the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners, MPRE Application Department, P.O. Box 4001, Iowa City, Iowa, 52243, (telephone 319-337-1287) and provide proof of passage to the Office of Probation, within one year after the effective date of the discipline herein. Failure to pass the MPRE within the specified time results in actual suspension by the Review Department, without further hearing, until passage. (But see Cal. Rules of Court, rule 9.10(b), and Rules Proc. of State Bar, rule 321(a)(1) and (3).)

## VII. Costs

The court recommends 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.

Dated: October \_\_\_\_, 2008

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LUCY ARMENDARIZ  
Judge of the State Bar Court