

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case Nos.:10-O-06207
	)	
<b>ASHKAN ALEX MOTAMEDI</b>	)	<b>DECISION</b>
	)	
<b>Member No. 228384</b>	)	
	)	
<u>A Member of the State Bar.</u>	)	

**INTRODUCTION**

Respondent Ashkan Alex Motamedi (Respondent) is charged here with five counts of misconduct involving a single client matter. The counts include allegations that Respondent willfully violated: (1) rule 3-110(A) of the Rules of Professional Conduct<sup>1</sup> (failure to perform with competence); (2) rule 3-700(A)(2) (improper withdrawal from employment); (3) rule 4-100(B)(3) (failure to render accounts of client funds); (4) Business and Professions Code section 6103 (failure to obey court order)<sup>2</sup>; and (5) section 6068(i) (failure to cooperate in State Bar investigation). The State Bar had the burden of proving the above charges by clear and convincing evidence. The court finds culpability and recommends discipline as set forth below.

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<sup>1</sup> Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.

<sup>2</sup> Unless otherwise noted, all future references to section(s) will be to the Business and Professions Code.

## **PERTINENT PROCEDURAL HISTORY**

The Notice of Disciplinary Charges (NDC) was filed in this matter by the State Bar of California on April 29, 2011. On June 6, 2011, Respondent filed his response to the NDC. Trial was commenced on August 23, 2011. Before it was completed, a settlement conference was held with another judge, at which the parties indicated that they had reached an agreement to settle. The parties, however, were subsequently unable to agree to the terms of the stipulated resolution, at which time the trial was resumed and completed on October 6, 2011. The State Bar was represented at trial by Deputy Trial Counsel Hugh Radigan. Respondent was represented at trial by James Kellner.<sup>3</sup>

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The following findings of fact are based on Respondent's response to the NDC and on the documentary and testimonial evidence admitted at trial.

### **Jurisdiction**

Respondent was admitted to the practice of law in California on December 2, 2003, and has been a member of the State Bar at all relevant times.

### **Case No. 10-O-06207**

In approximately mid-2005, Maria Barba (Barba) employed Respondent to represent her in a civil matter in which Barba alleged that Laura Anderson-Mota, a travel agent, had stolen Barba's identity and had signed Barba's name to a real estate purchase agreement. On July 28, 2006, Respondent filed a complaint on behalf of Barba in the Los Angeles County Superior Court. The complaint named a number of defendants in addition to Anderson-Mota.

On or about September 14, 2007, Respondent and counsel for Anderson-Mota agreed that

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<sup>3</sup> After a dispute arose between the parties over the terms of the settlement, Mr. Kellner filed a motion to withdraw as counsel. That motion was denied by the court.

the second and third sessions of Barba's deposition testimony would be conducted on November 7, 2007, and November 9, 2007, respectively. The deposition was scheduled to begin at 10:00 a.m. On the morning of the deposition, Respondent woke up late; did not feel well; and called his client, Barba (who was already at the deposition location), to tell her that he would be 30 minutes late to the deposition. Barba then told the attorneys at the deposition of that fact. When Respondent had not arrived by 11:00 a.m., the attorneys, after trying unsuccessfully to reach Respondent, convened the deposition, made a record of Respondent's non-appearance, and then adjourned. An interpreter, who had been hired to translate for Barba at the deposition, was released. Respondent did not arrive at the deposition venue until around noon-time, approximately two hours late.

The defendants' attorneys then demanded in writing that Respondent pay for the costs incurred by their clients in attending the aborted deposition. When Respondent refused to agree to do so, a motion for sanctions was filed and pursued by those parties. Respondent failed to file a timely opposition to the motion.<sup>4</sup> On or about January 3, 2008, the court granted the motion and assessed sanctions against Respondent in the amount of \$6,477.86, "payable within 10 days of this order."

Respondent did not pay the sanctions within the ten-day window ordered by the court. Nor did he seek a stay of the sanction award from the court.<sup>5</sup> Instead, on February 29, 2008, Respondent filed a Notice of Appeal of the sanctions order against him.

In March 2008, the defendants successfully sought to stay the civil suit because of the

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<sup>4</sup> Respondent filed an opposition, but only after the deadline for doing so had occurred and after the defendants had filed a notice of non-opposition. The trial court then declined to consider the opposition and explicitly treated the motion as being unopposed.

<sup>5</sup> An award of sanctions is treated as a monetary judgment for purposes of appeal and is not automatically stayed by the filing of an appeal. (*Newland v. Sup. Ct.* (1995) 40 Cal.App.4<sup>th</sup> 608, 615; *Banks v. Manos* (1991) 232 Cal.App.3d 123, 128-129; Code Civ. Proc., § 917.1.)

pendency of a parallel criminal case against Ms. Anderson-Mota.<sup>6</sup> That stay, however, did not apply to the pending appeal.

In December 2008, the Superior Court issued an order scheduling a status conference in the *Barba* case on April 16, 2009, for the purpose of determining the status of the appeal. The notice directed that plaintiff (represented by Respondent) give notice of the status conference to the other parties. No one did so. When the status conference was called by the court on April 16, 2009, no one appeared. As a result, the court issued an order to show cause (OSC) on that date, requiring that plaintiff show cause why sanctions should not be imposed in the sum of \$150. The order also re-scheduled the status conference to May 29, 2009. Again, plaintiff was ordered to provide notice of the order and status conference to the other parties, and a copy of the order was mailed to Respondent at his official State Bar membership address in Irvine, California.

When the May 29, 2009 status conference was called by the court, neither Respondent nor the plaintiff was present. As a result, the court issued an order assessing monetary sanctions against Respondent in the amount of \$150, payable within ten (10) days<sup>7</sup>. The court also issued another OSC re sanctions against plaintiff for her continuing failure to appear for the scheduled conferences. The order set the hearing date of the OSC on July 13, 2009, and re-scheduled the status conference to that date. This notice explicitly stated that plaintiff's case would be dismissed if counsel for plaintiff (Respondent) failed to appear for the status conference. Notice

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<sup>6</sup> Barba claimed in both her complaint to the State Bar and during her trial testimony that the case had settled during this time period. The court finds to the contrary. The records of the case itself provide no hint of a settlement and Respondent testified credibly that there was none. Moreover, Barba's reliability as an accurate historian was shown throughout trial to be quite poor, including as to the details of the purported settlement.

<sup>7</sup> Respondent also did not pay the newly-ordered \$150 sanctions during the ten (10) day period specified by the court.

of this order was sent to Respondent at his office address on Wilshire Boulevard in Los Angeles.

Neither Respondent nor his client appeared for the July 13, 2009 OSC hearing and status conference. As a result, the court on July 13, 2009, issued an order dismissing plaintiff Barba's complaint. This order directed that counsel for defendant Anderson-Mota give notice to Respondent. Counsel for Anderson-Mota mailed notice of the dismissal to Respondent. Several months later, in September 2009, the court awarded costs in the amount of \$3,680 against plaintiff Barba as a result of the dismissal.

Plaintiff Barba's failure to appear at the April, May and July 2009 status conferences was because she was unaware of them. Sometime after Barba's case had been dismissed in July, a friend of Barba learned of the dismissal through the internet and informed Barba of that fact. Barba then tried to contact Respondent but was unable to reach him. She then hired a new attorney in late September 2009, who tried unsuccessfully to have the court's prior dismissal order set aside, although the court did clarify that the dismissal was without prejudice.

On June 24, 2009, the Court of Appeal handed down an unpublished decision, affirming the \$6,477.86 award of sanctions against Respondent. Respondent, to date, has failed to pay the sanctions.

Respondent at trial explained that his failure to participate in Barba's case after February/March 2009 resulted from him essentially having a nervous breakdown at that time. He stopped going to his office and stopped even going to get the mail sent there. While he talked to another attorney about the possibility of that attorney taking over the *Barba* lawsuit, no attorney ever agreed to assume any responsibility for the case. As a result, both the underlying *Barba* lawsuit and Respondent's appeal were essentially abandoned. Respondent conceded at trial that he never notified Barba that he would not be doing any further work on her file and or

that he had stopped monitoring it.

Prior to the *Barba* case being stayed in early 2008, Barba had advanced to Respondent at least \$3,500 for costs. At the time that Respondent effectively withdrew from Barba's representation, Respondent rendered no accounting to Barba of the funds in his possession. Nor did he render any such accounting to Barba any time prior to this disciplinary procedure being filed.

On or about August 10, 2010, a State Bar investigator mailed letters to Respondent at his State Bar membership records address, which he received, requesting that Respondent cooperate and participate in the investigation by providing a written response to the allegations under investigation. At no time prior to the filing of the NDC in this matter did Respondent respond to the allegations under investigation as requested by the investigator.

**Count 1 – Rule 3-110(A) [Failure to Perform with Competence]**

Rule 3-110(A) provides that an attorney “shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence.” Respondent's failure to participate in Barba's case after February 2009, including his failures to attend any of the scheduled status conferences and OSC hearings and to take steps to avoid Barba's lawsuit being dismissed, constitute a willful violation by him of rule 3-110(A). (*Guzzetta v. State Bar* (1987) 43 Cal.3d 962, 979 [attorney failed to perform competently by taking no action towards purpose client retained him to accomplish]).)

**Count 2 – Rule 3-700(A)(2) [Improper Withdrawal From Employment]**

Rule 3-700(A)(2) provides, “A member shall not withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel,

complying with rule 3-700(D), and complying with applicable laws and rules.” An attorney may effectively withdraw from a case without any intent to do so, when that attorney virtually abandons the client and is grossly negligent in communicating with the client. (See, e.g., *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, 951; and cases cited therein.) Respondent effectively withdrew from his representation of Barba after his nervous breakdown in February/March of 2009. He was also enrolled inactive as an attorney from July 2009 to July 2010, due to his failure to comply with his MCLE obligations. As previously noted, Respondent at no time notified his client that he was not continuing to represent her and he failed to take reasonable steps to avoid foreseeable harm resulting to his client from the cessation of his involvement in the case.

Respondent’s conduct constituted a willful violation by him of his duties under rule 3-700(A)(2).

**Count 3 – Rule 4-100(B)(3) [Failure to Render Accounts of Client Funds]**

Rule 4-100(B)(3) requires a member to “maintain complete records of all funds, securities, and other properties of a client coming into the possession of the member or law firm and render appropriate accounts to the client regarding them[.]”

During the course of Respondent’s representation of Barba, she advanced at least \$3,500.00 to him to cover costs in her lawsuit, including possibly retaining an expert. No expert was ever retained by Respondent in the case before he stopped working on it. Respondent has never provided an accounting to Barba with regard to how or whether the advanced costs were actually expended on her behalf.<sup>8</sup>

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<sup>8</sup> At trial Respondent testified that he had spent all of the funds on various incurred costs and that Barba actually owed him money. That testimony was not contradicted by any other evidence during the trial.

Respondent seeks to justify his lack of an accounting by stating that he never received a request for an accounting from Barba. Barba, who does not speak English, agrees that she did not directly request Respondent to provide an accounting. Instead, she complained to the State Bar about the situation, which on August 10, 2010, sent Respondent a letter in which the State Bar explicitly referred to Barba's complaint that she had not been provided an accounting of the funds that she had advanced. Although Respondent agrees that he received this letter, he nonetheless continued to fail to provide an accounting. It was not until after the instant disciplinary charges were filed that Respondent first provided the State Bar (but not his client) with any sort of an accounting.

Respondent's failure to provide a timely accounting to Barba constitutes a willful violation by him of his obligation under rule 4-100(B)(3). (*In the Matter of Brockway, supra*, 4 Cal. State Bar Ct. Rptr. at p. 952 [culpability established for failure to account despite lack of formal demand for accounting].)

**Count 4 – Section 6103 [Failure to Obey Court Order]**

Section 6103 provides, in pertinent part: "A willful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, ... constitute causes for disbarment or suspension."

Respondent was ordered by the court in the *Barba* matter to pay sanctions for his failure to attend the Barba deposition and, later, ordered to pay sanctions for his failure to appear for a scheduled status conference and to comply with the order scheduling that conference. To date, Respondent has not complied with either of those two sanction orders. That inaction by Respondent constitutes willful violations of those court orders, in violation of section 6103.



**Count 5 – Section 6068(i) [Failure to Cooperate in State Bar Investigation]**

Section 6068(i) of the Business and Professions Code, subject to constitutional and statutory privileges, requires attorneys to cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against that attorney.

Respondent received a letter from the State Bar, asking that he provide information regarding the complaints by Barba. The letter provided a deadline for Respondent to provide that information. Respondent failed to provide the information either by the deadline or prior to the filing of the instant disciplinary charges.

Respondent seeks to justify this failure by stating that he telephoned the State Bar investigator to seek an extension. He agrees, however, that he never actually spoke with the investigator and that he never received any extension.<sup>9</sup> Nor is there any indication that Respondent ever sought to provide the requested information, including the requested accounting for Barba, until after formal charges were filed.

By failing to cooperate and participate in a State Bar disciplinary investigation, Respondent willfully violated section 6068(i). (See, e.g., *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 644 [attorney may be found culpable of violating § 6068, subd. (i), for failing to respond to State Bar investigator's letter, even if attorney later appears and fully participates in formal disciplinary proceeding].)

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<sup>9</sup> The investigator appeared at trial and testified, credibly, that she had no record of ever having received any message from Respondent.

### **Aggravating Circumstances**

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b).)<sup>10</sup> The court finds the following with regard to aggravating factors.

#### **Multiple Acts of Misconduct**

Respondent has been found culpable of at least four counts of misconduct in the present proceeding.<sup>11</sup> The existence of such multiple acts of misconduct is an aggravating circumstance. (Std. 1.2(b)(ii).)

#### **Significant Harm**

Respondent significantly harmed his client Barba by effectively abandoning her lawsuit and allowing it to be dismissed. (Std. 1.2(b)(iv).) Barba was forced to hire another attorney to seek to avoid the dismissal and was ultimately unsuccessful in doing so. As a result of the dismissal of her lawsuit, she is now subject to a judgment for costs awarded to the other side. (See, e.g., *In the Matter of Peterson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 73, 79.)

### **Mitigating Circumstances**

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Standard 1.2(e).) The court finds the following with regard to mitigating factors.

#### **No Prior Discipline**

Respondent has no history of any prior discipline. However, because he was not admitted to the bar until December 2003 and the misconduct here began in late 2007, just four

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<sup>10</sup> All further references to standard(s) or std. are to this source.

<sup>11</sup> Because of the general overlap of the activity giving rise to culpability for courts 1 and 2, this court elects to treat the rule 3-100(A) violation as being largely duplicative of the rule 3-700(A)(2) violation.

years later, he is not entitled to any significant mitigation credit for the lack of any prior discipline. (Std. 1.2(e)(i); *Smith v. State Bar* (1985) 38 Cal.3d 525, 540 [six years of blemish-free practice “not a strong mitigating factor”]; *In the Matter of Greenwood* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831, 837 [six years of blemish-free practice entitled to no mitigative weight].)

### **Emotional Difficulties**

Respondent testified at length during the trial of this matter that he suffered a nervous breakdown in March of 2009 and was unable to work as an attorney thereafter.

Extreme emotional difficulties may be considered mitigating where it is established by expert testimony that they were responsible for the attorney’s misconduct. (Std. 1.2(e)(iv); *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 701-702.) The evidence offered by Respondent regarding the emotional difficulties that he had in the past does not provide clear and convincing evidence that his emotional problems are a mitigating factor here. There was no expert testimony, or other convincing evidence, showing the required nexus between Respondent’s claimed emotional problems and his misconduct. Nor was there sufficient evidence for this court to conclude that any emotional problems suffered by Respondent in the past have now been satisfactorily resolved. Instead, the testimony by Respondent at trial was quite to the contrary.

### **DISCUSSION**

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) In determining the appropriate level of discipline, the court looks first to the

standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Although the standards are not binding, they are to be afforded great weight because “they promote the consistent and uniform application of disciplinary measures.” (*In re Silvertown* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 703.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Standard 1.6(a) provides that, when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended sanction is to be the most severe of the different sanctions. In the present proceeding, the most severe sanction for Respondent's misconduct is found in standard 2.2(b), which provides, in pertinent part: “Culpability of a member of ... the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.”

Also applicable are standards 2.4(b) and 2.6, which call for reproof or suspension, depending on the nature and extent of the misconduct and the degree of harm to the client.

Respondent's misconduct consisted of abdicating his obligations to his client, to the Superior Court, and to the State Bar for a period of several years. His misconduct caused his client significant harm, including the dismissal of her lawsuit and the resulting liability for a substantial award of costs. There are no significant mitigating factors. Under such circumstances, an actual suspension of at least 90 days is warranted. (See *In the Matter of Greenwood* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831, 837, and cases cited therein.)

Also of considerable concern to this court is Respondent's testimony regarding the lengthy history, impact, and current status of his impaired mental condition. Because of his nervous breakdown in February/March 2009, Respondent testified during trial that he has not been mentally able to practice law at all for nearly three years, has generally not sought to do so, and still feels unable to practice. Given the length of time that Respondent has already been removed from the practice of law, this court concludes that, after he has been actually suspended for any additional period in the future, he should not be restored to active status without first being required to present proof to this court that he meets the standards set forth in standard 1.4(c)(ii).

## **RECOMMENDED DISCIPLINE**

### **Recommended Suspension/Probation**

For all of the above reasons, it is recommended that **Ashkan Alex Motamedi**, Member No. 228384, be suspended from the practice of law for 18 months; that execution of that suspension be stayed; and that Respondent be placed on probation for three years, with the following conditions:

1. Respondent must be actually suspended from the practice of law for the first 90 days of probation and until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the general law pursuant to standard 1.4(c)(ii).
2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all the conditions of this probation.
3. Respondent must maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation, his current office address and telephone number or, if no office is maintained, an address to be used for State Bar purposes. (Bus. & Prof. Code, § 6002.1, subd. (a).) Respondent must also maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation, his current home address and telephone number. (See Bus. & Prof. Code, § 6002.1, subd. (a)(5).) Respondent's home address and telephone number will not be made available to the general public. (Bus. & Prof. Code, § 6002.1, subd. (d).) Respondent must notify the Membership Records Office and the Office of Probation of any change in any of this information no later than 10 days after the change.
4. Respondent must report, in writing, to the State Bar's Office of Probation no later than January 10, April 10, July 10 and October 10 of each year or part thereof in which Respondent is on probation (reporting dates).<sup>12</sup> However, if Respondent's probation begins less than 30 days before a reporting date, Respondent may submit the first report no later than the second reporting date after the beginning of his probation. In each

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<sup>12</sup> To comply with this requirement, the required report, duly completed, signed and dated, must be received by the Office of Probation on or before the reporting deadline.

report, Respondent must state that it covers the preceding calendar quarter or applicable portion thereof and certify by affidavit or under penalty of perjury under the laws of the State of California as follows:

(a) in the first report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation since the beginning of probation; and

(b) in each subsequent report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during that period.

During the last 20 days of this probation, Respondent must submit a final report covering any period of probation remaining after and not covered by the last quarterly report required under this probation condition. In this final report, Respondent must certify to the matters set forth in subparagraph (b) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California.

5. Subject to the proper or good faith assertion of any applicable privilege, Respondent must fully, promptly, and truthfully answer any inquiries of the State Bar's Office of Probation that are directed to Respondent, whether orally or in writing, relating to whether Respondent is complying or has complied with the conditions of this probation.
6. Within one year after the effective date of the Supreme Court order in this matter, Respondent must attend and satisfactorily complete the State Bar's Ethics School and provide satisfactory proof of such completion to the State Bar's Office of Probation. This condition of probation is separate and apart from Respondent's California Minimum Continuing Legal Education (MCLE) requirements; accordingly, Respondent is ordered

not to claim any MCLE credit for attending and completing this course. (Rules Proc. of State Bar, rule 3201.)

7. Respondent's probation will commence on the effective date of the Supreme Court order imposing discipline in this matter.

### **MPRE**

It is further recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination within one year after the effective date of the Supreme Court order imposing discipline in this matter, or during the period of his suspension, whichever is longer, and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

### **Rule 9.20**

The court recommends that Respondent be ordered to comply with rule 9.20 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in this matter.<sup>13</sup>

### **Costs**

It is further recommended that costs be awarded to the State Bar in accordance with section 6086.10 and that such costs be enforceable both as provided in section 6140.7 and as a money judgment. It is also recommended that Respondent be ordered to reimburse the Client

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<sup>13</sup> Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is also, *inter alia*, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)



Security Fund to the extent that the misconduct in this matter results in the payment of funds and that such payment obligation be enforceable as provided for under Business and Professions Code section 6140.5.

Dated: November \_\_\_\_\_, 2011

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DONALD F. MILES  
Judge of the State Bar Court