FILED JUNE 1, 2012

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of **MICHAEL HOWARD CROSBY** **Member No. 125778** A Member of the State Bar.	)	**Case No.: 11-O-13513-DFM** **DECISION**

INTRODUCTION

Respondent Michael Howard Crosby (Respondent) is charged here with four counts of misconduct, involving one client matter. The counts include allegations that Respondent willfully violated (1) rule 3-110(A) of the Rules of Professional Conduct[1] (failure to perform with competence); (2) Business and Professions Code section 6068(m) (failure to inform client of significant developments)[2]; (3) section 6068(m) (failure to respond to client inquiries); and (4) section 6068(i) (failure to cooperate in State Bar investigation). The Respondent stipulated to all of the allegations of the Notice of Disciplinary Charges filed in the matter and to violating each of the above standards of professional conduct. The court finds culpability and recommends discipline as set forth below.

[1] Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.
[2] 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 September 8, 2011. An initial status conference was held in the matter on October 3, 2011. Respondent did not attend. At that time the case was given a trial date of January 10, 2012, with a one-day trial estimate. On December 1, 2011, Respondent not having filed a response to the NDC, the State Bar filed a motion requesting entry of Respondent's default. On December 19, 2011, Respondent not having filed any opposition to the motion, an order was issued by this court, entering Respondent's default in the matter and enrolling him inactive under section 6007, subdivision (e).

On April 17, 2012, Respondent, represented by attorney David Cameron Carr, filed a motion to set aside the default, together with a verified proposed response to the NDC. The proposed response admitted all of the allegations of the NDC. On April 27, 2012, this court issued an order setting aside the default and re-scheduling the matter to begin a one-day trial on May 24, 2012. Respondent's response was filed by the court on that same day.

Trial was commenced and completed as scheduled. At the commencement of the trial the parties presented the court with an extensive stipulation as to the facts.

The State Bar was represented at trial by Deputy Trial Counsel William Todd. Respondent was represented at trial by David Cameron Carr.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on Respondent's response to the NDC, the stipulation of undisputed facts and conclusions of law previously filed by the parties, and the documentary and testimonial evidence admitted at trial.

Jurisdiction

Respondent was admitted to the practice of law in California on December 15, 1986, and has been a member of the State Bar at all relevant times.

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On October 23, 2008, Jenna Cirio ("Cirio") employed Respondent on a contingency fee basis to represent her in a claim for wrongful termination suit against her former employer, Alchemy Legal, Inc. ("Alchemy"), and her former supervisor, Craig Fleck ("Fleck"). On February 13, 2009, Respondent filed suit on behalf of Cirio against Alchemy and Fleck in the Superior Court of California, County of San Diego, Case No. 37-2009- 00083809 (the "*Cirio* case").

On August 6, 2009, Alchemy contacted Respondent and offered to settle the *Cirio* case for $5,000. Counsel for Alchemy told Respondent that Alchemy would file a bankruptcy petition if Cirio did not accept the settlement offer. Respondent communicated the settlement offer and accompanying bankruptcy threat to Cirio, who elected not to accept the settlement proposal even though Respondent indicated that "they probably do intend to file BK, and probably are not going to offer more than $5,000."

When Cirio elected to make a counter-demand of $95,000 rather than accept the continuing settlement offer prior to the stated deadline, Alchemy, on October 19, 2009, made good on its threat and filed a chapter 7 bankruptcy petition with the U.S. Bankruptcy Court, case no. 09-15852-LT7 (the "Alchemy Bankruptcy"). Alchemy listed Cirio as a creditor and listed Cirio's address as "c/o Michael H. Crosby" followed by Respondent's law office address. Cirio believed that Respondent was representing her in the bankruptcy.

On October 22, 2009, the U.S. Bankruptcy Court mailed a notification to Respondent that the U.S. Trustee would hold a meeting of creditors in the Alchemy Bankruptcy on November 19, 2009. Respondent received the notification.

On November 19, 2009, the U.S. Trustee held the meeting of creditors in the Alchemy Bankruptcy. Respondent did not attend the meeting and did not inform Cirio that the meeting was taking place. That meeting was Cirio's opportunity to submit a challenge regarding the discharge of her claim in the Alchemy Bankruptcy.

On April 30, 2010, the U.S. Bankruptcy Court discharged all of Alchemy's debts, including Cirio's, and closed the Alchemy Bankruptcy.

On May 27, 2010, the San Diego Superior Court notified Respondent by mail of a civil case management conference, scheduled for July 9, 2010, in the *Cirio* case. Respondent received the notice.

On July 9, 2010, the court held the civil case management conference in the *Cirio* case. Respondent failed to appear. The judge set a hearing re sanctions for Respondent's failure to appear and re possible dismissal of the *Cirio* case.

On August 20, 2010, the San Diego Superior Court stayed the *Cirio* case pending the resolution of the Alchemy bankruptcy.

On August 25, 2010, the superior court notified Respondent by mail of a status conference in the *Cirio* case, scheduled for December 3, 2010. Respondent received the notice.

On December 3, 2010, the superior court held the scheduled status conference in the *Cirio* case. Respondent failed to attend the conference. Although the bankruptcy action discharged Alchemy from any possible liability in the *Cirio* action, it did not operate to remove Defendant Fleck as a defendant or discharge his potential liability. Defendant Fleck attended the

case management conference and informed the court that the Alchemy Bankruptcy had concluded. The court then set a hearing regarding dismissal of the case for January 21, 2011. The court mailed Respondent a notice of the January 21, 2011 hearing, which Respondent received.

On January 21, 2011, the superior court held the scheduled hearing regarding dismissal of the *Cirio* case. Respondent failed to attend. As a result, the superior court concluded that plaintiff Cirio had no further interest in prosecuting the *Cirio* case and dismissed the suit without prejudice.

On January 26, 2011, the court mailed a notice of dismissal to Respondent. Respondent received the notice of dismissal but never informed Cirio that the superior court had dismissed her action. Respondent also never took any action to reopen the *Cirio* case or to advise Cirio of her legal options.

On August 24, 2010, Cirio discovered that the U.S. Bankruptcy Court had closed the Alchemy Bankruptcy on April 30, 2010. She then e-mailed Respondent, notified him of her discovery, and asked him what her options were in the *Cirio* case. Respondent received the e-mail but never responded to it.

From August 24, 2010 through January 11, 2011, Cirio e-mailed Respondent multiple times, trying to retrieve information about her suit. Respondent received the e- mails but did not respond to them. On January 13, 2011, Cirio submitted a complaint about Respondent to the State Bar.

On June 8, 2011, a State Bar investigator mailed a letter to Respondent, requesting a response to the allegations raised by Cirio's complaint. Respondent received the letter, but did not respond.

On June 24, 2011, the State Bar mailed a second letter to Respondent, again requesting a response to the allegations raised by Cirio's complaint. Once again, Respondent received the letter but did not respond.

On July 25, 2011, the State Bar left a telephonic voice mail message for Respondent, informing him that the State Bar had not yet received a response from him regarding Cirio's complaint. Respondent never responded to any of these State Bar requests for a written response to Cirio's complaint.

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."

By failing to prosecute the *Cirio* case, resulting in a dismissal by the superior court of the action, and then failing to take any steps to reopen the case or advise Cirio of her legal options, Respondent repeatedly failed to perform legal services with competence, in willful violation of this rule.[3] Respondent admitted his culpability for this count in his response to the NDC.

Counts 2 and 3–Section 6068(m) [Failure to Inform Client of Significant Developments and Failure to Respond to Client Inquiries]

Section 6068(m) of the Business and Professions Code obligates an attorney to "respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services."

[3] This court declines to find that Respondent violated rule 3-100(A) by failing to take steps to prevent the discharge of the *Cirio* case in the bankruptcy proceeding, including failing to attend the voluntary meeting of creditors. No evidence was offered to suggest any way in which that discharge could have been avoided and, on questioning, the State Bar conceded that it was unaware of any action that Respondent could have taken at the meeting that would have avoided the discharge.

By failing to inform Cirio of the meeting of creditors, of the fact that he had not attended that meeting, and of the fact that the *Cirio* case had been dismissed, Respondent failed to keep his client informed of significant developments in her case, in willful violation of section 6068(m). In addition, by subsequently failing to respond to Cirio's inquiries regarding the status of the case, Respondent failed to respond to reasonable status inquiries of his client, also in willful violation of section 6068(m). Respondent admitted his culpability for these counts in his response to the NDC.

Count 4 – 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.

By failing to respond to the State Bar's requests for information before the NDC was filed, Respondent willfully violated section 6068(i). (*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), by failing to respond to State Bar investigator's letter, even if attorney later appears and fully participates in formal disciplinary proceeding].) Respondent admitted his culpability for this count in his response to the NDC.

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).)[4] The court finds the following with regard to aggravating factors.

[4] All further references to standard(s) or std. are to this source.

Multiple Acts of Misconduct

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

Lack of Insight and Remorse

The State Bar argues that Respondent has demonstrated indifference toward rectification of or atonement for the consequences of his misconduct. (See Std. 1.2(b)(v).) However, the court finds that the State Bar has not presented clear and convincing evidence of indifference as an aggravating factor.

The sole evidence offered in support of this contention, is that Respondent failed to exercise diligence in the two Cirio matters and then ignored the inquiries of both his client and the State Bar. This is the very same evidence supporting the findings of culpability. As a result, it would be inappropriate to treat that evidence as an additional aggravating factor.

Further, once Respondent appeared in this matter he acknowledged at all times the inappropriateness of his prior conduct, agreed to culpability for all four of the counts alleged in the NDC, and expressed remorse for his mishandling of the client's matters.

Significant Harm

The State Bar contends that Respondent's misconduct significantly harmed his client. (Std. 1.2(b)(iv).) Once again, the court finds that the State Bar has not presented clear and convincing evidence of such an aggravating factor here.

It was agreed during closing argument that the evidence did not show that Respondent's misconduct has caused any actual financial harm to his client. Instead the State Bar argues that

the significant harm consisted of depriving Cirio of her opportunity to be heard at the creditors' meeting.

This court declines to find that this lack of the opportunity to be heard at that meeting constituted proof of any significant harm as an aggravating factor. First, this court has previously found that the evidence does not establish Respondent's culpability under section 3-110(A) for Respondent's failure to attend the creditors' meeting. As a result, if there actually was any harm caused by that failure, it was not a result of any misconduct by Respondent. Conversely, had the court concluded that the failure to attend the meeting was misconduct, it would be inappropriate to simultaneously treat that that failure to attend (aka "failure to be heard") both as the basis for culpability and as an additional aggravating factor. Finally, there was no evidence that Cirio would have even wanted her attorney to have attended the meeting of creditors to be heard. Cirio did not appear as a witness during the trial of this matter, and there was no evidence from her that she suffered any harm as a result of Respondent's actions. Nor was there any evidence that either Respondent or Cirio would have had anything to say at the creditors' meeting which would have potentially avoided Cirio's claim being discharged by the bankruptcy. Losing the opportunity to be heard, when there is absolutely nothing to have been said and no expressed desire to have ever been heard, does not constitute clear and convincing proof of any significant harm.

In other areas, the State Bar does not contend, and this court does not find, that Respondent's failure to pursue the *Cirio* case after Alchemy was discharged resulted in any significant harm. Respondent testified that defendant Fleck was effectively judgment-proof and

the State Bar, which had the burden of proof, offered no contrary evidence.[5] Further, the dismissal of the *Cirio* case was without prejudice, and there is no evidence that Cirio was precluded from re-filing the matter or had any desire to do so.

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 had practiced law in California for 24 years prior to the commencement of the instant misconduct. During that span, Respondent had no prior record of discipline. Respondent's lengthy tenure of discipline-free practice is entitled to significant weight in mitigation. (Std. 1.2(e)(i); *Boehme v. State Bar* (1988) 47 Cal.3d 448, 452-453, 455 [22 years of practice without prior discipline is an important mitigating circumstance].)

Cooperation

The court gives Respondent mitigating credit for his belated but important cooperation in this proceeding. Respondent admitted to all of the allegations of culpability in this matter when he first appeared in it and then entered into an extensive stipulation of facts. For this cooperation he is entitled to some mitigation. (Std. 1.2(e)(v); see also *In the Matter of Esau* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 131, 137 ["We routinely recognize limited mitigation when a respondent stipulates to material facts."]; *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 913; *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr.

[5] At the same time, the court declines to give Respondent mitigation credit for no harm. While he testified that defendant Fleck was impecunious, his testimony was less than clear and convincing on that issue, for which he had the burden of proof, and was unsubstantiated by any other evidence.

416, 443; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [where appropriate, more extensive weight in mitigation is accorded those who admit to culpability as well as facts]; *In the Matter of Hertz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456, 471, 473 [respondent given mitigation credit for stipulating to charges at outset of the hearing although his culpability included acts of deceit during the State Bar's investigation].)

The weight the court gives to this mitigating conduct, however, is substantially lessened by Respondent's earlier lack of cooperation in the proceeding, including his failure to appear in the action until well after his default had been taken.

Community Service

Respondent testified that he has regularly performed considerable volunteer service in his community and for the bar for many years and also has performed various pro bono legal work. The State Bar agrees that this evidence is entitled to some mitigating weight. (See also *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [pro bono and community service as mitigating factor].) However, because Respondent offered only his own testimony to establish these efforts, this court assigns only modest weight to this mitigation evidence. (See *In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 840 [limited mitigation weight for community service established only by respondent's testimony].)

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 Silverton* (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 standards 2.4(b) and 2.6. Standard 2.4(b) provides that a member's culpability of willfully failing to perform services in an individual matter or matters not demonstrating a pattern of misconduct or a member's culpability of willfully failing to communicate with a client must result in reproval or suspension, depending upon the extent of the misconduct and the degree of harm to the client. Standard 2.6 provides that violation of certain provisions of the Business and Professions Code must result in

disbarment or suspension depending on the gravity of the offense or the harm to the victim, with due regard for the purposes of discipline.

The State Bar recommends that Respondent be suspended for 30 days as a result of his misconduct and cites as authority the Supreme Court's decisions in *Bach v. State Bar* (1991) 52 Cal.3d 1201 and *Lister v. State Bar* (1990) 51 Cal.3d 1117. Counsel for Respondent contends that only a public reproval is warranted, notwithstanding the standards. If the standards are to be followed, he contends that no actual suspension need be ordered, either legally or factually.[6]

It is this court's recommendation that a one-year stayed suspension and one year of probation is adequate to protect the public from any future misconduct by Respondent. Respondent has credibly expressed his remorse over his prior misconduct, including his lack of cooperation with the State Bar's investigation; he has acknowledged his wrongdoing while explaining that it resulted, in part, from his transition from a practicing attorney to an administrative law judge; and he had practiced for 24 years without any prior discipline by the State Bar. Once he turned away from his new role of being a judge to paying attention to his continuing duties as a member of the State Bar, he formally acknowledged his culpability and entered into a stipulation as to all material facts. There is every reason to believe that discipline at the bottom level of the standards will be sufficient to ensure that no future misconduct by Respondent will occur. Such a level of discipline, involving suspension rather than a reproval, is also completely consistent with the applicable standards and reflects the absence of any significant aggravating harm.

The two cases cited by the State Bar are not to the contrary. The misconduct in *Lister* involved multiple clients and was substantially more extensive than that occurring here.

[6] The State Bar agrees that neither standard requires that actual suspension be ordered.

Moreover, the respondent there did not have a lengthy period of practice without prior discipline, but instead had previously been disciplined. In *Bach*, while there were many similarities between the misconduct there and here, the respondent's attitude there about his prior misconduct was stunningly different than that expressed by Respondent here and was the principal reason why the Supreme Court felt it necessary to order a brief period of actual suspension:

> "Although arising out of a single case of client neglect, petitioner's difficulties have multiplied apparently as a result of a persistent lack of insight into the deficiencies of his professional behavior. He has denied any responsibility for the inordinate delay and substantial cost, anxiety, and inconvenience imposed on Ms. Hester by his nonperformance, refused to participate in mandatory fee arbitration proceedings on essentially specious grounds, and declined to respond to successive requests from the State Bar for information concerning the matter although reminded of his duty to do so.
>
> Despite this record, petitioner invokes our discretion over discipline by suggesting that the following factors in mitigation itemized under standard 1.2(e) of the standards are present in his case: that his conduct was "not deemed serious" (std. 1.2(e)(i)); that he acted in "good faith" (std. 1.2(e)(ii)); that the record shows a "lack of harm to the client" (std. 1.2(e)(iii)); that he displayed "spontaneous candor and cooperation" during the investigation and disciplinary proceedings (std. 1.2(e)(v)); and that these proceedings were excessively delayed without his fault and to his prejudice (std. 1.2(e)(ix)). We find none of these factors presented by this record.
>
> Moreover, the attitude toward discipline betrayed by petitioner's feckless suggestion that these factors are present strengthens the case for a period of actual suspension, however brief, followed by supervised probation." (52 Cal.3d at p. 1208.)

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There is absolutely no such need for a period of actual suspension here.

RECOMMENDED DISCIPLINE

Recommended Suspension/Probation

For all of the above reasons, it is recommended that **Michael Howard Crosby** be suspended from the practice of law for one year; that execution of that suspension be stayed; and that Respondent be placed on probation for one year, with the following conditions:

1. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all the conditions of this probation.

2. 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.

3. 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).[7] 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 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:

[7] 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.

(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.

4. 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.

5. 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.)

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

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It is further recommended that Respondent take and pass the Multistate Professional Responsibility Examination during the period of his probation 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).)

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 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: July _____, 2012

DONALD F. MILES
Judge of the State Bar Court