FILED AUGUST 5, 2013

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of **STEVEN A. GERINGER,** **Member No. 107826,** A Member of the State Bar.	)	Case No.: **12-O-11220-PEM** **DECISION**

Introduction[1]

In this contested, disciplinary proceeding, the Office of the Chief Trial Counsel of the State Bar of California (State Bar) charges respondent Steven A. Geringer with three counts of professional misconduct. The charged misconduct includes (1) failing to perform with competence; (2) improperly withdrawing from employment; and (3) committing an act of moral turpitude.

The court finds, by clear and convincing evidence, that respondent is culpable of one of the charged acts of misconduct, i.e., improperly withdrawing from employment in violation of rule 3-700(A)(2). Based upon the nature and extent of culpability, as well as the applicable mitigating and aggravating circumstances, the court recommends, among other things, that respondent actually be suspended from the practice of law for 30 days.

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

Significant Procedural History

The State Bar of California, Office of the Chief Trial Counsel (State Bar), initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on December 18, 2012. Respondent filed a response to the NDC on January 15, 2013.

On May 9, 2013, the parties filed a "Stipulation As To Facts," which the court admitted into evidence.

A one-day trial was held on May 9, 2013. The State Bar was represented by Senior Trial Counsel Maria Oropeza. Respondent was represented by attorney Glen Earl Gates. On May 9, 2013, following closing arguments, the court took this matter under submission.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on June 3, 1983, and has been a member of the State Bar of California at all times since that date.

Case No. 12-O-11220 – The Slama Matter

Facts

On August 28, 2008, Anthony Slama (Slama) filed a suit entitled *Slama v. City of Madera*, case No. 1:08-CV-00810, in the United States District for the Eastern District of California (the district court) against the City of Madera Police Department (the City) for civil rights violations. Respondent substituted into the matter and became Slama's attorney of record on December 11, 2008. On that same date, respondent filed an ex-parte application for an extension of time to file an opposition to the motion to dismiss, which had been filed on behalf of the City. On December 17, 2008, the district court denied respondent's request for an extension of time and granted the City's motion to dismiss; but, the court allowed Slama leave to file an amended complaint. Respondent received the district court order. On January 11, 2009,

respondent filed a second amended complaint on behalf of Slama alleging constitutional violations.

On March 5, 2010, the City filed a motion for summary judgment. Respondent was served with the motion for summary judgment and received it. Respondent did not file an opposition to the motion for summary judgment. Respondent credibly testified that prior to the filing of the summary judgment motion, he had taken numerous depositions, conducted discovery, and corrected pleadings by the previous attorney. Respondent also credibly testified that after he had conducted discovery, he determined that opposing the summary judgment would be a fruitless exercise. Respondent conveyed his belief to Slama regarding the futility of filing a summary judgment opposition.

It is also clear that respondent informed Slama that there was a pending motion for summary judgment. As early as March 11, 2010, respondent wrote to Slama, stating that: "Upon review of the motion I do not believe that we have a chance of winning against the motion because we cannot prove that the officer did not act like any other officer would in the same situation. . . . If you decide to file an opposition, I urge you to seek other legal representation immediately because the opposition must be filed within time limits. I have enclosed a substitution of attorney for you to sign that will have you representing yourself in this matter. I will wait to hear from you." As indicated, respondent enclosed a proper substitution of attorney for Slama's signature with the letter he sent to Slama. The language in respondent's letter was unequivocal and left no doubt that respondent did not intend to file an opposition and would wait to hear back from Slama. (Exh. 22, p. 18.) Respondent did not hear back from Slama.

On April 16, 2010, the district court granted the City's motion for summary judgment as to the first, third and fourth causes of action and invited the City to file an additional motion for

summary judgment as to the second cause of action. Respondent was served with the Court's order granting the City's motion for summary judgment and received it. It is clear, however, that respondent was still representing Slama during the time period in and around mid-April 2010. In a letter to Slama, dated April 15, 2010, respondent enclosed an authorization for health records that were at issue in the *Slama v. City of Madera* case and requested that Slama sign and return the authorization to respondent. (Exh. 22, p. 8.) At that time respondent was still Slama's attorney.

Respondent sent a letter, dated May 14, 2012, to a State Bar investigator in which he informed the investigator that some time shortly after April 13, 2010, his office had received a substitution of attorney form executed by Slama, which form stated that Slama was substituting himself in propria person in place of respondent as attorney of record in the *Slama v. City of Madera* case. (Exhibit 22, pp. 3, 23.) Respondent, however, knew or should have known that Slama's April 13, 2010 substitution of attorney form was not valid. Previously, on August 20, 2008, respondent had written a letter to Slama's then-attorney, Brenda Hook (Hook), pointing out in the first paragraph of his letter that even if Hook had signed a "potential substitution of attorney," such substitution of attorney was "not valid" because it had not been filed with the district court. (Exh. 21.) Respondent's 2008 letter shows that he knew and understood that a substitution of attorney form must be signed by the client as well as the client's attorney, and must be filed with the court. The April 13, 2010 substitution of attorney form that Slama sent to respondent had not been signed by respondent.

On April 20, 2010, respondent sent Slama a letter stating, "Please be advised that the court has ruled against us on the Motion for Summary Judgment filed by the defendants. I have

enclosed a copy of the email showing that the order was granted as to the first, third, and fourth causes of action." (Exhibit 23.)[2]

On April 26, 2010, the City filed the second summary judgment motion with regard to the second cause of action. Respondent was properly served with the summary judgment motion and received it. Respondent, however, did not file an opposition to the second motion for summary judgment motion. On May 20, 2010, the City's motion for summary judgment on the second cause of action was granted, all pending dates and deadlines were vacated, and the clerk was ordered to close the case.

On July 19, 2010, respondent wrote to Slama, stating he had on a number of different occasions written to Slama informing him of the outcome of his lawsuit against the City of Madera. He also told Slama that pursuing the case would be fruitless as there was no basis for filing an appeal.

On April 15, 2011, Slama appeared before the district court seeking to file a motion for reconsideration of the 2010 orders granting summary judgment and to set aside those orders. He also requested that respondent be relieved as counsel of record and that he be allowed to represent himself. Slama executed the substitution of attorney form, on April 13, 2010, and filed it with the court on April 15, 2011. Slama averred that he had not been aware of the motions for summary judgment and, thus, had not filed a response.

On July 21, 2011, the district court directed the clerk of the court to serve respondent as counsel of record with Slama's Motion for Reconsideration of the court's order granting the City's motion for summary judgment and with the proposed order for substitution of counsel. (Exh. 15.) The July 21, 2011 order noted that local rule 182(g) requires a withdrawing attorney

[2] Respondent's April 20, 2010 letter is evidence of the fact that as of April 20th, respondent was still representing Slama.

to sign the request for substitution of counsel. The district court further noted that respondent had not signed Slama's requested substitution of attorney. On July 23, 2011, respondent executed a pleading in the *Slama v. City of Madera* matter, entitled, "Non-Opposition to Allow Plaintiff to Substitute Counsel in Order for Plaintiff to Represent Himself in Propria Persona. (Exh. 16.) On July 27, 2011, after respondent had filed his statement of non-opposition, indicating that he did not oppose Slama's request to the substitution of counsel, the Magistrate Judge of the district court granted Slama's request to relieve respondent as attorney of record and ordered that Slama be substituted into the *Slama v. City of Madera* action to represent himself.

Thereafter, on August 22, 2011, Magistrate Judge Oberto issued additional findings and recommendations in the *Slama v. City of Madera* matter. Magistrate Judge Oberto's findings and recommendations to the district court included the following: (1) respondent had essentially abandoned his client; (2) Slama's motion for reconsideration should be granted; (3) the April 16 and May 20, 2010 orders granting the City's motions for summary judgment should be set aside; and (4) Slama should be allowed sixty days in which to file oppositions to the City's motions for summary judgment.

Conclusions

Count One - (Rule 3-110(A) [Failure to Perform Legal Services with Competence])

Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence.

In Count One the State Bar alleges that by not filing oppositions to the two summary judgment motions filed by the City in the *Slama v. City of Madera* action, respondent failed to competently perform legal services.

It is the State Bar's burden to ". . . establish a charge of unprofessional conduct by convincing proof and to a reasonable certainty. [Citation.] All reasonable doubts are resolved in

favor of the attorney. [Citations.]" (*Ballard v. State Bar* (1983) 35 Cal.3d 274, 291; *In the Matter of Heiser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47, 55.)

However, the evidence offered in support of this claimed rule 3-110(A) violation is neither clear nor convincing. In the *Slama v. City of Madera* action the City's summary judgment motions were unopposed. However, non-opposition to a motion for summary judgment is not dispositive as to whether the motion should be granted. In federal court, despite a party's failure to respond to a summary judgment motion, the court must still evaluate the merits of the motion. A party's mere failure to respond, by itself, does not provide the court with the authority to grant the motion. (*Evans v. Independent Order of Foresters* (9th Cir. 1998) 141 F.3d 931, 932.) Rather, the court is independently obligated to "carefully evaluate [ ]" whether there exist genuine issues of material fact that would preclude summary judgment. (See *Cristobal v. Siegel* (9th Cir. 1994) 26 F.3d 1488, 1494-95 & n. 4 [unopposed motion may be granted only after court determines that there are no material issues of fact].) Even in the absence of a response from the nonmoving party, the moving party still bears the burden of demonstrating entitlement to judgment as a matter of law. (*Id*.)

As set forth, above, respondent credibly testified that prior to the filing of the summary judgment motion, he had taken numerous depositions, conducted discovery, and corrected pleadings by the previous attorney. Respondent also credibly testified that after he conducted discovery, he determined that opposing the summary judgment would be futile. Moreover, it is clear from respondent's letter to Slama and respondent's testimony in this proceeding that not only did respondent believe that opposing the summary judgment motions would be fruitless;

but, he believed that the filing of such oppositions could subject him to sanctions under Rule 11 of the Federal Rule of Civil Procedure.[3]

After analyzing the facts known to him, respondent determined that the City's summary judgment motions could not be defeated. As set forth, *ante*, respondent communicated his belief in a letter to his client. Thus, resolving all reasonable doubts in favor of respondent as required, the court finds that the State Bar has not met its burden of establishing by clear and convincing evidence that respondent failed to perform competently in violation of rule 3-110(A) when he did not file oppositions to the summary judgment motions in the *Slama v. City of Madera* action.

Accordingly, Count One is dismissed with prejudice.

Count Two - (Rule 3-700(A)(2) [Improper Withdrawal from Employment])

Rule 3-700(A)(2) prohibits an attorney from withdrawing from employment until the attorney has taken reasonable steps to avoid reasonably foreseeable prejudice to the client's rights, including giving due notice to the client, allowing time for the employment of other counsel, and complying with rule 3-700(D) and other applicable rules and laws.

After being served with the City's second summary judgment motion on April 26, 2010, respondent at minimum should have communicated with Slama and advised him to return the substitution of counsel form that respondent had enclosed with the March 11, 2010 letter that he had previously sent to Slama, and which respondent could, thereafter, have executed and filed with the court, as required under local rule 182 of the Federal Rules of Civil Procedure for the Eastern District of California.

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[3] "Rule 11 imposes a duty on attorneys to certify that they have conducted a reasonable inquiry and have determined that any papers filed with the court are well grounded in fact, legally tenable and 'not interposed for any improper purpose.'" (*Cooter & Gell v. Hartmarx Corp.*, (1990) 496 U.S. 384, 393.) Rule 11, of the Federal Rule of Civil Procedure provides, in relevant part: "If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney that violated the rule or is responsible for the violation. . . ."

Respondent, however, did not comply with rule 182 of the Federal Rules of Civil Procedure for the Eastern District of California. After sending the March 11, 2010 letter to Slama and prior to the April 15, 2011 filing of Slama's substitution of attorney, respondent took no action on Slama's behalf. During that time period, i.e., between March 11, 2010 and April 15, 2011, respondent did not advise the court that he no longer represented Slama; nor did respondent seek permission from the court to withdraw from the matter or request an extension of time on Slama's behalf, so that Slama could seek alternative counsel.

By failing to file a substitution of counsel form that complied with the rules of the district court or seek an extension of time on Slama's behalf, respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to his client in willful violation of rule 3-700(A)(2).

Count Three - (§ 6106 [Moral Turpitude])

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment.

The NDC alleges that the "true reason" that Slama's case was dismissed was because respondent had failed to file oppositions to the City's summary judgment motions. The NDC Bar further alleges that respondent committed an act of moral turpitude, dishonesty or corruption by failing to inform Slama in the April 20 and July 19, 2010 letters that the "true reason" that the district court's dismissed the *Slama v. City of Madera* case was because respondent had not filed oppositions to the City's summary judgment motions.

It is the State Bar's burden to ". . . establish a charge of unprofessional conduct by convincing proof and to a reasonable certainty. [Citation.] All reasonable doubts are resolved in favor of the attorney. [Citations.]" (*Ballard v. State Bar* (1983) 35 Cal.3d 274, 291; *In the Matter of Heiser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47, 55.)

Here, the record fails to establish by convincing proof and to a reasonable certainty that the dismissal of Slama's case was caused by respondent not having filed oppositions to the summary judgment motions. First, it is not clear that respondent could have filed an opposition to the summary judgment motions, which would not have been frivolous. No evidence was presented, which clearly or convincingly demonstrated the existence of facts, which respondent could have used to establish a genuine issue of material fact, thereby precluding the granting of summary judgment.

Moreover, the allegation that respondent engaged in an act of moral turpitude by not informing Slama in the April 20, 2010 and July 19, 2010 letters that the court granted the City's summary judgment motions because respondent had not filed oppositions to those motions has not been established by clear and convincing evidence. As noted, *ante*, the evidence is not clear and convincing that respondent could have successfully opposed the summary judgment motions. Additionally, respondent credibly testified that after he had conducted discovery, he concluded that opposing the summary judgment would be a fruitless exercise. No evidence was introduced to rebut respondent's conclusion.

The court further notes that while respondent's April 20 and July 19, 2010 letters do not mention that respondent had not filed oppositions to the summary judgment motions, respondent had written a letter to Slama on March 11, 2010, in which he stated that he had no intention of filing an opposition to the City's March 5, 2010 motion for summary judgment. In his letter March 11th letter, respondent advised Slama that he did not believe there was a chance of winning against the City's summary judgment motion. Respondent additionally made clear in his March 11th letter that if Slama wished to file an opposition to the summary judgment motion, he needed to seek new counsel to file the opposition, because respondent would not file the opposition. Respondent also enclosed a substitution of attorney form with the letter and advised

Slama that he needed to find new counsel "immediately" if he intended to oppose the summary judgment motion, because the opposition was required to be filed within time limits. Slama, however, did not sign the substitution of attorney form or return it to respondent.

Resolving all reasonable doubts in favor of respondent, the court finds that the State Bar has not met its burden of establishing by clear and convincing evidence that respondent committed an act of moral turpitude as a result of failing to state in his April and July 2010 letters that he had not filed oppositions to the City's summary judgment motions and/or by failing to state in those letters that the district court dismissed the *Slama v. City of Madera* case because respondent had not opposed the motions.

The evidence simply is neither clear nor convincing that respondent's afore-stated omissions from the April and July 2010 letters involved any dishonest, corrupt, or venal intent to deceive Slama.

Accordingly, Count Three is dismissed with prejudice.

Aggravation[4]

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

Effective May 14, 2008, respondent was publicly reproved and ordered to comply with certain conditions for one year for violating rule 3-310(C)(1) and rule 3-310(C)(2) in the same client matter. (State Bar Court case Nos. 04-O-13916 (05-O-03987).) In aggravation, the court found uncharged misconduct based upon respondent's violation of rule 3-300 for entering a business transaction with his client without disclosing the terms of the agreement in writing pursuant to the requirements of the rule. In mitigation, respondent had no prior record of discipline after having been in practice for a significant period of time. Additionally, the court

[4] All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

afforded respondent's good character evidence some, but not extensive consideration in mitigation.

Mitigation

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.2(e).) No mitigating factors were shown by the evidence presented to this court.

Discussion

In determining the appropriate discipline to recommend in this matter, the court looks at the purposes of disciplinary proceedings and sanctions. Standard 1.3 sets forth the purposes of disciplinary proceedings and sanctions as "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

In addition, standard 1.6(b) provides that the specific discipline for the particular violation found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing disciplinary sanctions.

Standard 1.7(a) provides that, when an attorney has one prior record of discipline, "the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust."

Violations of rule 3-700(A)(2) [improper withdrawal from employment] fall under the rubric of standard 2.10, which provides that violations of any provisions of the Business and Professions Code or Rules of Professional Conduct, which are not otherwise specified in the standards pertaining to sanctions for professional misconduct found or acknowledged in original

disciplinary proceedings, must result in reproval or suspension depending upon the gravity of the misconduct or harm to the victim, with due regard to the purposes of imposing discipline.

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.)

The State Bar urges that respondent be actually suspended from the practice of law for 90 days. The State Bar's recommendation is based on the presumption that respondent is culpable of the three counts set forth in the NDC. However, as discussed, *ante,* respondent has in fact been found culpable of only one of the three counts, i.e., his violation of rule 3-700(A)(2) [improper withdrawal from employment]. Respondent, on the other hand, believes that a period of stayed suspension is appropriate under the facts and surrounding circumstances.

In addition to a carefully considering and taking the standards into account, the court finds *King v. State Bar* (1990) 52 Cal.3d 307, *Bach v. State* Bar (1991) 52 Cal.3d 1201, and *In the Matter of Kennon* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 267 to be instructive on the appropriate level of discipline.

In *King*, discipline was imposed consisting of four years' stayed suspension and four years' probation on conditions including three months' actual suspension. In two client matters, the attorney was found culpable of not performing or returning client files and improper withdrawal. In aggravation, the court considered client harm; indifference and lack of insight. In mitigation, King had no prior discipline in about 15 years and he was candid and cooperative with victim. The instant case involves only one client and presents less extensive misconduct and less aggravation than that in *King*.

In *Bach*, the misconduct arose out of a single case of client neglect. The client retained attorney Bach to obtain a dissolution of her marriage, paying him a $3,000 advanced fee. Thereafter, Bach failed to communicate with the client for months despite repeated telephone calls and office visits from the client. He never obtained the dissolution for the client, and withdrew his representation without the client's consent or court approval. He also failed to refund unearned fees and failed to respond to inquiries from a State Bar investigator regarding the matter. In aggravation the attorney denied any responsibility for the inordinate delay and substantial cost imposed on the client by his nonperformance of services. He also refused to participate in mandatory fee arbitration proceedings on specious grounds. No mitigating circumstances were found. The Supreme Court concluded, among other things, that attorney Bach be suspended from the practice of law for 12 months, that the execution of that suspension order be stayed, and that Bach be placed on probation for 12 months subject to conditions including an actual suspension from the practice of law for the first 30 days of the probationary

period. The Court also ordered that Bach remain suspended until he paid specified restitution to the client. The instant case presents less misconduct and aggravation than *Bach*.

In *Kennon*, the attorney, who had no prior record of discipline, was actually suspended for 30 days with a two-year stayed suspension and a two-year probation for his abandonment of two clients and a failure to return unearned fees of $2,000 to one client. In the instant case, respondent's misconduct involves only one client and is limited to his improper withdrawal from employment.

Accordingly, having considered the evidence, the standards, the case law, and the aggravating factors, the court concludes that a one-year stayed suspension and a two-year probation period with conditions, including, among other conditions, a 30-day actual suspension from the practice of law would be appropriate to protect the public, the courts and the legal profession.

Recommendations

It is recommended that respondent Steven A. Geringer, State Bar Number 107826, be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that respondent be placed on probation[5] for a period of two years subject to the following conditions:

1. Respondent Steven A. Geringer is suspended from the practice of law for the first 30 days of probation.

2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.

3. Within 30 days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person

[5] The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

or by telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request.

4. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.

5. During the probation period, respondent must report in writing quarterly to the Office of Probation. The reports must be postmarked no later than each January 10, April 10, July 10, and October 10 of the probation period. Under penalty of perjury, respondent must state in each report whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of respondent's probation conditions during the preceding calendar quarter or applicable reporting period. If the first report would cover less than 30 days, no report is required at that time; however, the following report must cover the period of time from the commencement of probation to the end of that next quarter. In addition to all quarterly reports, a final report must be postmarked no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.

6. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.

7. Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

At the expiration of the probation period, if respondent has complied with all conditions of probation, respondent will be relieved of the stayed suspension.

Multistate Professional Responsibility Examination

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

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: August _____, 2013

Pat McElroy
Judge of the State Bar Court