

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of) Case No.: **12-O-13663-RAP**
)
CONNIE LEE YOUNGER,) **DECISION**
)
Member No. 224357,)
)
A Member of the State Bar.)

Introduction¹

In this contested disciplinary matter, respondent **CONNIE LEE YOUNGER** is charged with three counts of misconduct in one client matter: failing to pay client funds promptly; committing an act of moral turpitude; and failing to comply with the law.

This court finds, by clear and convincing evidence, that respondent is culpable of two of the three charged counts. In view of respondent's misconduct and the evidence in mitigation and aggravation, the court recommends, among other things, that respondent be suspended from the practice of law for two years, that execution of suspension be stayed, that she be placed on probation for two years and that she be actually suspended for one year and until she makes restitution.

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 March 4, 2013. Respondent filed a response on April 16, 2013.

Trial in this matter was held on September 19 and 20, 2013. Respondent appeared by video conference. The matter was submitted for decision on September 20, 2013. Deputy Trial Counsel Timothy G. Byer represented the State Bar. Respondent represented herself.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on February 10, 2003, and has been a member of the State Bar of California at all times since that date.

Case No. 12-O-13663 – The Shepherd Matter

Facts

Respondent represented John Shepherd in two litigation matters, *Bridges v. Shepherd* and *Shepherd v. McCallister*.

Bridges v. Shepherd

On August 1, 2007, Shepherd employed respondent to represent him in a lawsuit entitled *Bridges v. Shepherd*, Riverside County Superior Court, case No. RIC 470859. Shepherd was representing himself in the lawsuit prior to retaining respondent. Respondent and Shepherd executed the retainer agreement on August 3, 2007. Under the terms of the retainer agreement, respondent was to be paid \$200 per hour plus costs and Shepherd was required to pay respondent an initial advance fee of \$2,000, which he paid.

Respondent worked diligently on behalf of Shepherd and the \$2,000 advance fee was quickly drawn down. Shepherd could not afford to pay respondent additional funds to continue

to represent him. Yet, respondent continued to diligently represent Shepherd and eventually the case settled. Shepherd, as the defendant, did not have to pay anything to the plaintiff.

Shepherd v. McCallister

After the *Bridges* case was settled, respondent agreed to represent Shepherd in a second lawsuit entitled *Shepherd v. McCallister*, Riverside County Superior Court, case No. RIC502025. They did not have a signed retainer agreement but had orally agreed to a contingency fee agreement.

On May 5, 2010, Judith Hartwig, plaintiff's attorney in the *Bridges* lawsuit, filed an interpleader action.

Once again, respondent worked diligently on behalf of Shepherd in the second lawsuit and in the interpleader action. The *McCallister* case eventually settled for \$12,000, an amount that was less than what respondent had anticipated when she agreed to represent Shepherd. Shortly after the matter had settled, attorney Hartwig claimed an attorney lien on the whole \$12,000 settlement.

The court awarded Hartwig \$2,978.69 in attorney fees and deducted the amount from the \$12,000 settlement. On September 29, 2011, the court in the interpleader action issued a check in the amount of \$9,021.31, made payable to "John William Shepard c/o Younger Law Corp." The check was disbursed in late October 2011 and upon receipt, respondent placed the check into her client trust account.

On November 1, 2011, respondent filed a request for dismissal in the *McCallister* action. On the same day, she sent a correspondence to Shepherd and enclosed a check in the amount of \$5,000 representing his portion of the settlement funds. The correspondence also included an accounting of the funds respondent received on behalf of Shepherd. Unfortunately, the

correspondence was inadvertently sent to an outdated and incorrect address for Shepherd and he never received the letter.

In December 2011, respondent placed a stop order on the \$5,000 check.

On February 8, 2012, respondent sent a second letter to Shepherd and acknowledged that the previous letter was sent to the incorrect address. But, again, respondent sent this letter to the same incorrect and outdated address for Shepherd.

In approximately March 2012, an employee of respondent went to Shepherd's home and hand-delivered the November 1, 2011,² letter to Shepherd with an accounting of the settlement funds as follows:

Total Settlement	\$12,000
Respondent's contingency fee of 33 1/3%	\$4,000
Attorney fee award to defendant	<u>\$3,000</u> ³
Net to Client	\$5,000

The November 11, 2011, letter indicated that a \$5,000 check was enclosed. However, respondent's employee explained to Shepherd that respondent only issued checks on the first of the month and that Shepherd would receive the \$5,000 check after the first of the next month (December 2011).

To date, respondent has not paid any funds to Shepherd.

Sometime after March 2012, respondent concluded that Shepherd owed her unpaid fees from her prior representation in the *Bridges* matter. Respondent determined that the August 2007 written fee agreement from the *Bridges* matter controlled and she asserted an attorney's

² Respondent's testimony that the November 1, 2011 letter was a "fantasy" letter and not meant to be delivered to Shepherd is not credible.

³ The correct interpleader award was \$2,978.69, not \$3,000 (\$12,000 - \$9,021.31 = \$2,978.69).

lien against the \$5,000 owed to Shepherd in the *McCallister* matter.⁴ Respondent then removed the \$5,000 from her client trust account and retained the funds for her own benefit.

In her letter to State Bar Investigator, respondent wrote: "I had the \$5,000 in trust on hold for several months, but disbursed it to myself for my labors after I refused to abide by a contingency arrangement which was oral anyway."

At trial, respondent tried to justify her taking the \$5,000 for her own benefit. She testified to all the work she had done in the *Bridges* matter that had gone uncompensated, that she needed the money, that Shepherd did not need the money since he had social security, and that she had a valid attorney's lien under the retainer agreement. So, she took the money.

Conclusions

Count One – (Rule 4-100(B)(4) [Promptly Pay/Deliver Client Funds])

Rule 4-100(B)(4) requires an attorney to promptly pay or deliver, as requested by the client, any funds, securities, or other properties in the attorney's possession which the client is entitled to receive.

When the *McCallister* case settled and respondent received the September 29, 2011 settlement check on behalf of her client, she was required to promptly pay \$5,000, the client's share of the settlement proceeds, to Shepherd which he was entitled to receive.

Instead, she unilaterally decided that the money was hers because respondent believed that Shepherd owed her attorney fees and thus, he was not entitled to receive the funds. To justify her rightful claim to those funds, respondent argued that she had a valid attorney's lien, that there was no contingency agreement, and that she had been slandered by Shepherd. These

⁴ Respondent's testimony concerning Shepherd's alleged slander against respondent is not relevant.

claims are all without merit. Whatever reason respondent conjures to justify her action, it is clear that she had no legal authority to take the \$5,000 in settlement funds.

Respondent contends that the August 2011 retainer agreement included an attorney's lien provision to secure payment on any recovery on the action and that the attorney's lien entitled her to secure the \$5,000 to pay her legal fees.

However, if an attorney thereby acquires an ownership, possessory, security or other pecuniary interest adverse to the client, the attorney must comply with rule 3-300.

Rule 3-300 provides that an attorney must not enter into a business transaction with a client or knowingly acquire an ownership, security, possessory, or other pecuniary interest adverse to a client unless the transaction/acquisition and its terms are reasonable and fair to the client and are fully disclosed and transmitted in writing to the client in a reasonably understandable manner; the client is advised in writing that the client may seek the advice of an independent lawyer of the client's choice and is given a reasonable opportunity to do so; and the client thereafter consents in writing to the terms of the transaction/acquisition.

Here, respondent's collection of the \$5,000 from her client's settlement proceeds as compensation for legal services is clearly acquiring a pecuniary interest adverse to the client and hence subject to rule 3-300. Respondent failed to comply with the prophylactic requirements to ensure that the transaction was fair and reasonable to the client: (1) she failed to disclose the collection in writing; (2) she failed to allow Shepherd a reasonable opportunity to obtain independent advice from another attorney; and (3) Shepherd did not consent in writing to the terms of the acquisition. Thus, the attorney lien is not valid and unenforceable. She failed to establish entitlement to the claimed fees.

When she received the \$9,021.31 settlement funds in October 2011, respondent was required to promptly pay Shepherd his portion of the funds in the amount of \$5,000. To date,

she has not paid him. Therefore, the court finds that there is clear and convincing evidence that respondent willfully failed to pay client funds promptly, in willful violation of rule 4-100(B)(4), by failing to pay Shepherd any of the \$5,000 settlement funds from the *McCallister* action.

Count Two - (§ 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.

Respondent admitted that she took \$5,000 in *McCallister* settlement funds. The court rejects her self-serving contentions and finds that she did not have authority to apply the funds to attorney fees and was not entitled to the \$5,000. Respondent could not have held an honest belief that she was entitled to the funds. But rather, she unilaterally determined that she was entitled to the funds because the client was unappreciative and she spent more than four years working on his two cases without just reward. Getting insufficient payments for one's services does not justify self-help in client funds.

It is well settled that an "attorney may not unilaterally determine [her] own fee and withhold trust funds to satisfy it even though [she] may be entitled to reimbursement for [her] services." (*Crooks v. State Bar* (1970) 3 Cal.3d 346, 358.) Respondent's misappropriation of the funds not only violated the rule governing client trust funds, but also involved moral turpitude and dishonesty. She knew that the settlement funds belonged to Shepherd and promised him that she would send him the check when her employee visited him in March 2012. But she then changed her mind and refused to pay him. Respondent intentionally kept the funds, which conduct involved moral turpitude.

Therefore, the court finds there is clear and convincing evidence that respondent's conduct in misappropriating \$5,000 of settlement funds in the *McCallister* matter involved moral turpitude in willful violation of section 6106.

Count Three – (§ 6068, subd. (a) [Attorney’s Duty to Support Constitution and Laws of United States and California])

Section 6068, subdivision (a), provides that an attorney has a duty to support the Constitution and laws of the United States and California.

The State Bar alleged that respondent breached her fiduciary duty to Shepherd in repudiating her contingency fee agreement with Shepherd and thereby failed to support the Constitution and laws of the United States and California.

Section 6068, subdivision (a), is a conduit by which attorneys may be charged and disciplined for violations of other specific laws which are not otherwise made disciplinable under the State Bar Act, including a violation of: (1) a statute not specifically relating to the duties of attorneys; (2) a section of the State Bar Act which is not, by its terms, a disciplinable offense; and (3) an established common law doctrine which is not governed by any other statute. (*In the Matter of Lilley* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476, 487.)

None of these situations was involved in this case. Respondent did not violate any statute, a section of the State Bar Act or an established common law doctrine that is a disciplinable offense. Thus, there is no clear and convincing evidence that respondent violated section 6068, subdivision (a).

Aggravation⁵

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

Respondent failed to promptly pay settlement funds to her client in November 2011 and then misappropriated the funds by unilaterally disbursing the settlement proceeds in client trust account to pay herself without client's knowledge or consent.

⁵ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Harm to Client/Public/Administration of Justice (Std. 1.2(b)(iv).)

Shepherd testified to the harm that was caused by respondent's misappropriation of his funds. Respondent's refusal to pay the settlement funds deprived her client of the entrusted funds since November 2011.

Indifference Toward Rectification/Atonement (Std. 1.2(b)(v).)

Respondent demonstrated lack of insight into her wrongdoing and put forth meritless arguments. She acknowledged that she took the money to pay herself and insisted, despite lack of evidence, that she was entitled to enforce an attorney lien against Shepherd. She has yet to refund her client the settlement funds of \$5,000. She still fails to recognize that unilateral withdrawal of funds to satisfy a fee claim is prohibited, even though she had devoted much time and efforts in the two litigation matters for Shepherd.

“The law does not require false penitence. [Citation.] But it does require that the respondent accept responsibility for [her] acts and come to grips with [her] culpability. [Citation.]” (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511.) That, respondent has not done.

Mitigation

No Prior Record (Std. 1.2(e)(i).)

Respondent has been an attorney since 2003 with no prior record of discipline. At the time of the misconduct, respondent had been an attorney for only approximately eight years. In addition, respondent's misconduct is serious. Accordingly, respondent is afforded little mitigation for this factor.

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

In June 1999, respondent was diagnosed as suffering from a panic disorder with agoraphobia. To date, respondent still suffers from this disorder.

At the time of her misconduct, respondent was suffering from the stress of being her ill husband's (Eugene Younger) primary caregiver which became an almost full-time responsibility. She also had to care for her high school age daughter and operate her law practice. At one point, due to the stress, respondent could no longer fulfill her responsibilities as her husband's primary caregiver and her husband's sister, Vivian Younger (Vivian), took over in June 2011. He died on December 27, 2011.

Although the exact effect of respondent's husband's lengthy illness and death had on respondent is unclear, it is clear that respondent was caring for her husband during the litigation and settlement process of the *McCallister* matter.

Respondent's compassionate testimony as to her care for her husband during his lengthy illness and how it affected her emotionally during the time of the misconduct is challenged by the testimony of Vivian.

According to Vivian, she was summoned to respondent's home in late May 2011 and was asked by respondent to stay with her brother because respondent needed to go out. Respondent did not return until the next morning when she announced that she and her husband were separating and that Vivian would have to care for her brother. After he came to stay with Vivian, respondent seldom, if ever, had any contact with him. Currently, there is litigation between respondent and Vivian concerning the probate of Eugene Younger's estate.

Respondent's emotional and family difficulties are given some weight in mitigation.

Good Character (Std. 1.2(e)(vi).)

Respondent presented substantial evidence of her community work and evidence of good character. Five character witnesses, including four attorneys and one client, testified to her good character, honesty, integrity and trustworthiness. The witnesses included a past president of the

State Bar of California; a past president of the Riverside County Bar Association; the current Public Defender for Riverside County; and a retired attorney.

All the attorneys were effusive in their praise for respondent's dedicated commitment to her clients and their cases and her commitment to providing legal services to those who cannot afford to pay. The attorneys were aware of respondent's various legal activities, such as with the Inns of Court, her commitment to various local bar association committees and projects, and her commitment to causes to aid the homeless.

A current client of respondent testified that because of a bad experience with a previous attorney in his civil lawsuit, he lost faith in the justice system. But respondent has helped him to regain faith and believe in the system again. Respondent charges nominal fees for her services and has demonstrated her commitment and compassion for her clients.

Their testimony demonstrates not an extraordinary but a sufficient showing of respondent's good character as mitigation.

Other

Since her admission to the State Bar, respondent has volunteered her time on various Riverside County Bar Association committees and projects; has worked on projects related to the homeless in Riverside; and has been fee arbitration mediator for the county bar and participated in the county bar's dispute resolution service.

Based on her pro bono work in fee dispute matters, respondent knew or should have known that one does not unilaterally decide to pay herself from the settlement funds as legal fees without the client's consent, however rightfully she believed that she was entitled to the money. Her experience as a fee arbitration mediator should have aided her to avoid misconduct in this matter. It did not and it is thus discounted as a mitigating factor. (*In the Matter of Lais* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112, 122.)

Discussion

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

Standard 1.3 provides that the primary purposes of disciplinary proceedings “are 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.”

Standard 1.6(b) provides, in pertinent part, that the specific sanction for the particular violation found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing disciplinary sanctions.

The standards provide a broad range of sanctions ranging from suspension to disbarment, depending upon the gravity of the offenses and the harm to the victim. Standards 2.2, 2.3 and 2.6 apply in this matter.

Standard 2.2(a) provides for disbarment for the willful misappropriation of entrusted funds or property unless the amount misappropriated is insignificantly small or unless the most compelling mitigating circumstances clearly predominate, in which case the discipline recommended must not be less than one-year actual suspension, regardless of mitigating circumstances.

Standard 2.2(b) provides that commingling or another violation of rule 4-100 must result in at least a three-month actual suspension, irrespective of mitigating circumstances.

Standard 2.3 provides that culpability of an act of moral turpitude, fraud or intentional dishonesty, or of concealment of a material fact, must result in actual suspension or disbarment

depending upon the degree of harm to the victim, the magnitude of the misconduct, and the extent to which it relates to the member's practice of law.

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

The State Bar recommends that respondent be disbarred from the practice of law.

Respondent, on the other hand, argues for dismissal of all counts. She maintains that she is entitled to the settlement funds as her legal fee payments because she was not fully compensated for all her hard work.

The following cases provide guidance on the appropriate level of discipline – a period of actual suspension ranging from three months to two years.

In *Greenbaum v. State Bar* (1976) 15 Cal.3d 893, the attorney was actually suspended for three months with a stayed suspension of four years for misappropriating and commingling his client funds of \$11,000. In particular, he appropriated \$6,000 of client funds to his own use, treating it as a loan from his client without his client's authority. His misconduct was not excused in any way merely because his client ultimately suffered no loss as he had repaid the

client. (*Id.* at p. 903.) The attorney remained unrepentant and maintained that he was justified in using his client's funds and taking out the loan.

In *Bates v. State Bar* (1990) 51 Cal.3d 105, the attorney misappropriated \$1,229.75 from his client trust account and made misrepresentations to the client's new attorney regarding the status of the trust account. The attorney did not make restitution until after the State Bar referee issued his decision, reflecting his lack of appreciation of his moral and ethical obligations to his client and his lack of remorse for his wrongdoing. The Supreme Court noted that the attorney's misconduct was especially harmful to his client because the misappropriated funds were significant in amount and were meant to reimburse the client for personal injuries. Nevertheless, the Supreme Court imposed a six-month actual suspension in view of mitigation evidence, including his lack of a prior record of discipline in 14 years of practice.

In *Edwards v. State Bar* (1990) 52 Cal.3d 28, the Supreme Court actually suspended the attorney for one year for misappropriating \$3,000 of client funds. In mitigation, the court found that the attorney made full repayment within three months of the misappropriation, was candid with the client and the State Bar and took voluntary steps to improve his handling of entrusted funds. He had practiced law for 12 years without prior discipline.

In *Porter v. State Bar* (1990) 52 Cal.3d 518, the Supreme Court imposed a two-year actual suspension for an attorney who committed serious misconduct in nine client matters, including misappropriation of settlement funds, writing a bad check, forgery, lying to clients, and unlawfully practice law while suspended. In one matter, he settled the case for \$5,000 without the client's consent or knowledge, forged the client's name to a release and her endorsement on the check, and kept the money. He had strong mitigating factors, such as extreme emotional difficulties and rehabilitation evidenced by community and professional activities.

Here, respondent's misconduct is less egregious than that of *Porter* in that it did not involve nine clients or deceit. But unlike the attorneys in *Greenbaum*, *Bates*, and *Edwards*, she has yet to repay the client or recognize her wrongdoing.

“In a society where the use of a lawyer is often essential to vindicate rights and redress injury, clients are compelled to entrust their claims, money, and property to the custody and control of lawyers. In exchange for their privileged positions, lawyers are rightly expected to exercise extraordinary care and fidelity in dealing with money and property belonging to their clients. [Citation.] Thus, taking a client's money is not only a violation of the moral and legal standards applicable to all individuals in society, it is one of the most serious breaches of professional trust that a lawyer can commit.” (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221.)

The Supreme Court has recognized that not every misappropriation which is technically willful is equally culpable. (*Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1367.) Elements of dishonesty, concealment or deceit are often found in misappropriation cases in which the attorney has been disbarred for serious misconduct or received a lengthy suspension for less serious misconduct. (See, i.e., *Chang v. State Bar* (1989) 49 Cal.3d 114; *Hitchcock v. State Bar* (1989) 48 Cal.3d 690; *Rimel v. State Bar* (1983) 34 Cal.3d 128 [disbarment cases]; *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357 [explained further in *Hipolito v. State Bar* (1989) 48 Cal.3d 621, 627-628]; *Mack v. State Bar* (1970) 2 Cal.3d 440 [suspension cases].) Those elements are not present in the instant case. Respondent was definitely wrong in failing to promptly disburse the remaining balance of the settlement funds and clearly disregarded her trust account responsibilities, but she was not intentionally dishonest. Respondent's misappropriation was an isolated instance of misconduct in her eight years of practice.

In recommending discipline, the “paramount concern is protection of the public, the courts and the integrity of the legal profession.” (*Snyder v. State Bar* (1990) 49 Cal.3d 1302.)

After balancing all relevant factors and in light of the case law and standards, the court concludes that disbarment would be unduly harsh. There is "no evidence that a sanction short of disbarment is inadequate to deter future misconduct and protect the public." (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 958.) Accordingly, the court determines that a one-year actual suspension and until she makes restitution is proper and adequate for the protection of the public, the courts and the legal profession.

Recommendations

It is recommended that respondent Connie Lee Younger, State Bar Number 224357, be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that respondent be placed on probation⁶ for a period of two years subject to the following conditions:

1. Respondent Connie Lee Younger is suspended from the practice of law for a minimum of one year of probation, and respondent will remain suspended until the following requirement(s) are satisfied:
 - i. Respondent must make restitution to John William Shepherd in the amount of \$5,000 plus 10 percent interest per year from November 1, 2011 (or reimburse the Client Security Fund, to the extent of any payment from the fund to John William Shepherd, in accordance with Business and Professions Code section 6140.5) and furnish satisfactory proof to the State Bar's Office of Probation in Los Angeles. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).
 - ii. If respondent remains suspended for two years or more as a result of not satisfying the preceding requirement(s), she must also provide proof to the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law before her suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
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.

⁶ 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.)

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 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. Respondent must comply with the following reporting requirements:
 - a. If respondent possesses client funds at any time during the period covered by a required quarterly report, respondent must file with each required report a certificate from a certified public accountant or other financial professional approved by the Office of Probation certifying that:
 - i. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account"; and
 - ii. Respondent has complied with the "Trust Account Record Keeping Standards" as adopted by the Board of Governors (Board of Trustees) pursuant to rule 4-100(C) of the Rules of Professional Conduct.
 - b. If respondent does not possess any client funds, property or securities during the entire period covered by a report, respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, respondent need not file the certificate described above.

The requirements of this condition are in addition to those set forth in rule 4-100 of the Rules of Professional Conduct.

7. 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.
8. 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.)
9. 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 Client Trust Accounting School and passage of the test given at the end of the session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)
10. 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 Exam

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, or during the period of respondent's 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.

California Rules of Court, Rule 9.20

It is further recommended that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

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: December 4, 2013

RICHARD A. PLATEL
Judge of the State Bar Court