PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	**Case Nos.:** 15-N-15301; 15-O-11499; 16-O-11297; 16-O-13288-**DFM**
RUBEN DANIEL SANCHEZ,	)	**DECISION INCLUDING DISBARMENT RECOMMENDATION AND INVOLUNTARY INACTIVE ENROLLMENT ORDER**
A Member of the State Bar, No. 164298.	)	

INTRODUCTION

Respondent **Ruben Daniel Sanchez** (Respondent) is charged here with numerous violations of his ethical obligations including willfully violating: (1) rule 3-110(A) of the Rules of Professional Conduct[1] (failure to act with competence); (2) section 6068, subdivision (m), of the Business and Professions Code[2] (failure to communicate with client); (3) rule 3-700(D)(1) (failure to release client file); (4) section 6068, subdivision (i) (failure to cooperate in State Bar investigation); (5) section 6068, subdivision (k) (failure to comply with conditions of probation); (6) rule 3-310(F) (accepting fees from a third-party without client's proper consent); and (7) California Rules of Court, rule 9.20 (failure to file timely compliance statement). In view of Respondent's misconduct and the aggravating factors including the history and nature of his three prior disciplines, the court recommends, inter alia, that he be disbarred from the practice of law.

[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

This decision results from the filing of two separate disciplinary proceedings against Respondent, now consolidated.

The first Notice of Disciplinary Charges (NDC) was filed by the State Bar of California on July 20, 2016 (State Bar case Nos. 15-N-15301; 15-O-11499; and 16-O-11297).

On August 15, 2016, Respondent filed his response to the NDC, denying all of the allegations of the charging document and requesting referral to the Alternative Discipline Program.

On August 22, 2016, the initial status conference was held before the undersigned, during which the proceeding was given a trial date of October 26, 2016. In addition, no objection having been made to Respondent's request for referral for ADP evaluation, the case was referred to the Hon. Kearse McGill, then a member of the Hearing Department of this court, for ADP evaluation.

On September 14, 2016, with the appointment of Judge McGill to the Review Department of this court, this matter was reassigned to Judge Lucy Armendariz as the new ADP Program judge.

On October 11, 2016, the NDC was filed by the State Bar in case No. 16-O-13288. The matter was originally assigned to Judge Armendariz as the existing ADP program judge, who issued an order that same day, vacating the existing pretrial and trial dates in the previously-filed cases. She thereafter consolidated the two proceedings and continued to evaluate them for possible inclusion in the Alternative Discipline Program.

On January 9, 2017, Judge Armendariz issued an order, finding that Respondent was not eligible for the Alternative Discipline Program, presumably because of his prior participation in

the program. As a result, the now-consolidated cases were returned to the undersigned for standard proceedings.

A status conference was conducted in the consolidated cases before the undersigned on January 23, 2017, at which time the matters were given a trial date of May 2, 2017, with a three-day trial estimate. Because Respondent had not yet filed a response to the newest NDC, he was advised by the court to do so immediately, and the State Bar was ordered to file a motion for entry of his default on or before February 7, 2017, if he continued to fail to do so.

On January 25, 2017, Respondent filed his response to the NDC in case No. 16-O-13288, denying the allegations of it.

On March 27, 2017, Respondent filed a motion to enforce what he alleged was a prior agreement with the State Bar to resolve the consolidated cases. On April 6, 2017, the State Bar filed an opposition to the motion. On April 12, 2017, this court issued an order rejecting Respondent's motion as follows:

> On March 27, 2017, Respondent filed a motion to compel the State Bar to comply with a stipulated disposition previously entered into by Respondent and the State Bar. In his motion he argues that the parties agreed to the stipulation on November 14, 2016; that this court agreed on November 28, 2016, to sign the stipulation "with minor changes"; and that the State Bar then notified him that it was no longer willing to agree to the agreement. Attached to Respondent's motion is a copy of the transcript of the hearing at which the court addressed the proffered stipulation.
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> On April 6, 2017, the State Bar filed an opposition to the motion, arguing that the court formally "rejected" the proffered stipulation on November 28, 2016, and that, pursuant to rule 5.56 of the Rules of Procedure of the State Bar of California, the State Bar is thereby "relieved of the effects of the stipulation, except the factual stipulations they agreed to be bound by."
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> Having reviewed the papers submitted by the parties, including the transcript of the November 28, 2016 status conference, this court agrees with the State Bar's assessment of the situation. At the status conference, the court expressly stated that the proffered stipulation was being rejected and a formal order to that effect was subsequently filed. The quoted provision of rule 5.56 is directly on point. Accordingly, to the extent Respondent's motion seeks to require the State Bar to

"comply" with the disposition set forth in the rejected stipulation, that motion is DENIED.

Similarly, the court declines to grant the request that Respondent be allowed to raise the stipulated agreement as an affirmative defense. However, as noted above, the stipulation, even if rejected, is nonetheless binding for certain reasons, although not binding for others. To the extent that Respondent seeks to use the stipulation at trial in defense to any particular issue is an issue that must await resolution at trial. Accordingly, the request for an advance ruling allowing such use is denied without prejudice to being raised at trial on a more specific basis.[3]

On April 19, 2017, the parties filed a Stipulation as to Facts, Conclusions of Law, and Admission of Documents, in which Respondent agreed to the admission into evidence of the State Bar's proffered exhibits, admitted the critical facts regarding the counts alleged against him, and stipulated to culpability for all of them.

Trial was commenced and completed on May 2, 2017. The State Bar was represented by Deputy Trial Counsel Shataka Shores-Brooks. Respondent acted as counsel for himself. Although the parties, at their request, were given two weeks to submit optional post-trial briefs, the case was submitted for decision on May 2, 2017.[4]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on the extensive stipulation of undisputed facts and conclusions of law filed by the parties and on the documentary and testimonial evidence admitted at trial.

Jurisdiction

Respondent was admitted to practice law in the State of California on June 4, 1993, and since that time has been a member of the State Bar of California.

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[3] During the trial of this matter, Respondent offered no evidence of the prior stipulation.

[4] Respondent filed a post-trial brief on May 16, 2017. As was its option, no post-trial brief was filed by the State Bar.

Case No. 15-O-11499 (Moreno Matter)

On April 11, 2013, Robert Moreno (Moreno) hired Respondent to represent him in a legal malpractice lawsuit against attorney Scott Minturn (Minturn) and paid Respondent $5,000.

On May 17, 2013, Respondent filed a complaint on behalf of Moreno against Minturn in the San Diego County Superior Court.

On June 28, 2013, counsel for Minturn filed both a response to the complaint and a cross-complaint on behalf of Minturn against Moreno. Respondent was served with the cross-complaint by mail on June 28, 2013, but failed to file any timely response on behalf of Moreno to it.

On September 18, 2013, opposing counsel filed five motions to compel discovery responses from Moreno and requesting sanctions. Respondent was served with the motions.

On November 4, 2013, opposing counsel filed an ex parte application for an order shortening time on defendant's discovery orders. A letter to Respondent dated August 29, 2013, informing Respondent that the deadline to provide discovery responses had expired, was attached to the ex parte application. Respondent received the application.

On November 6, 2013, opposing counsel filed amended motions to compel discovery responses and requesting sanctions. These motions were served on Respondent by mail on November 5, 2013.

On November 15, 2013, opposing counsel filed a request for entry of Moreno's default on the cross-complaint. On the same day, Moreno's default was entered on the cross-complaint.

On December 5, 2013, the San Diego court issued a tentative ruling granting defendant Minturn's unopposed motions to compel as follows: defendant's requests for admission were to be deemed admitted; plaintiff Moreno was to provide responses, without objection, to the form and special interrogatories and to the request for production of documents within 15 days of the

date of the ruling. The court also tentatively ordered Moreno to pay Minturn monetary sanctions in the amount of $1,300 within 15 days.

On December 6, 2013, Respondent appeared for the discovery hearing, although he had not filed any oppositions to the pending motions. After oral argument, the court only modified its tentative ruling to reduce the amount of sanctions to be paid by Moreno, reducing the sanctions to $950. All other aspects of the tentative order were adopted and incorporated into a minute order that same day. On December 9, 2013, the notice of the ruling from the December 6, 2013, hearing was filed with the court and served on Respondent.

On December 20, 2013, Minturn's counsel filed a motion for summary judgment against Moreno's complaint.

On December 30, 2013, opposing counsel filed a motion for terminating sanctions, based on the failure of Respondent and Moreno to comply with the court's prior orders compelling discovery.

On February 13, 2014, Moreno sent a letter to Respondent, requesting Respondent to provide him with an update on the status of the case and informing Respondent of his concerns about Respondent's lack of communication and failure to comply with the discovery requests. In this letter, Moreno noted that there was a motion scheduled "to terminate my case" and recounted that Respondent had indicated that he would be filing a "473" motion right away "to get the case back on track." (Ex. 9, p. 1.) Among the various questions asked by Moreno of Respondent in this letter were whether discovery responses, which Respondent's office had assured Moreno would be sent out a week and a half earlier, had been sent and whether the promised "473" motion had been prepared and filed. Moreno asked Respondent to fax answers to his questions that same day and closed with the comment, "I am getting very nervous and scared of losing by default." Respondent received the letter but did not respond to it.

On February 26, 2014, Moreno sent another letter to Respondent, complaining of Respondent's failure to respond to his prior letter and again expressing his concerns about the status of the case. In this letter, Moreno noted that the court's "Register of Actions" indicated that Minturn had filed several motions to compel, a motion for summary judgment, and a motion for terminating sanctions. Moreno expressed his concerns that there was no record in the registry of any opposition having been filed by Respondent to the pending motions and that the hearing of the summary judgment motion was on March 7, 2014, just a few days away. In addition to repeating the questions that had been included in the prior letter, Moreno raised a number of additional issues regarding the status of the case, demanded that Respondent provide written answers to his inquiries, and again emphasized that he was "very nervous and scared of losing by default." (Ex. 10.) This letter was emailed to Respondent's office, which confirmed with Moreno having received it.

Respondent did not fax answers to Moreno's letter, as Moreno had requested. Instead, during the morning of February 28, 2014, Respondent had a conversation with Moreno. During this conversation, Respondent told Moreno that the hearing on March 7, 2014, was merely a status conference, not a hearing of the summary judgment motion. However, later that same day, Moreno, after again reviewing the court's calendar for his lawsuit, sent a letter to Respondent, pointing out that Respondent's description of the upcoming March 7, 2014, hearing only explained the case management conference scheduled for the morning of March 7, and did not deal with the fact that the court's calendar showed a separate hearing of the motion for summary judgment at 1:30 p.m., on the same date. Moreno's letter went on to express dismay that the summary judgment motion had been filed two months earlier, that the hearing was seven days away, and that no response to the motion had been filed by Respondent on Moreno's behalf. At the conclusion of his letter, Moreno asked that Respondent promptly fax to him answers to the

various questions that Moreno had raised in his earlier correspondence, and he reiterated his anxiety about the possibility of losing his lawsuit by default. Notwithstanding these ongoing expressions of anxiety by Moreno, no response to this letter was provided by Respondent.

On March 6, 2014, the day before the scheduled hearing of the summary judgment motion, Respondent filed an ex parte application to set aside both the court's prior order compelling discovery and the entry of Moreno's default on the cross-complaint. He also asked for leave to file a late opposition to the summary judgment motion. In this application, based on Code of Civil Procedure section 473(b), Respondent stated that he "had not seen the summary judgment motion until yesterday." (Ex. 8, p. 371.) He then stated under penalty of perjury that he had instructed his staff to direct all documents and issues concerning the Moreno case directly to a contract paralegal and that he had not reviewed any of such correspondence or documents prior to them being sent to that paralegal. He then stated that he had not properly supervised this paralegal. Respondent asked that the hearing of his ex parte requests for relief be held the next morning, March 7, 2014, at 8:30 a.m., just prior to the hearing of the summary judgment motion.

On March 7, 2014, the superior court denied Respondent's ex parte application to set aside the prior court orders and Moreno's default. On the same day, Respondent then appeared for the hearing on the motion for summary judgment. After oral argument, the court granted the motion for summary judgment, a ruling memorialized in a minute order filed later that same day. Among other things, the court found in this order that Moreno was not entitled to recover any advanced fees paid to Minturn, his prior attorney, but instead was obligated to pay fees to him. (Ex. 8, p. 386.) On March 11, 2014, a notice of ruling of the summary judgment decision was filed with the court and served on Respondent.

On March 19, 2014, Respondent filed an ex parte application to set aside the court's summary judgment order. On March 20, 2014, the court denied Respondent's ex parte

application, concluding that the issues should be raised by noticed motions. In anticipation of the filing by Respondent of such noticed motions, the court then scheduled a hearing date of them on May 9, 2014. Despite the scheduling of this hearing date, no motions were immediately forthcoming from Respondent.

On April 7, 2014, Respondent filed an opposition to the motion for terminating sanctions that had been filed on December 30, 2013.

On April 23, 2014, judgment was entered in favor of Minturn and against Moreno in Moreno's action against Minturn. The court ordered that Moreno would take nothing by way of his complaint against Minturn and ordered Moreno to pay the $950 sanctions previously imposed.

On May 9, 2014, a case management conference was held. Respondent appeared on behalf of Moreno. Although the court had previously set this date for the hearing of any motions to set aside Moreno's default and for other relief pursuant to Code of Civil Procedure section 473, Respondent had not filed any such motions prior to that date. In view of the summary judgment, Minturn's motion for terminating sanctions was taken off calendar.

On May 16, 2014, a week after the date previously scheduled by the court for the hearing for such motions, Respondent filed a motion seeking to set aside the default judgment, summary judgment, and discovery orders.

On June 2, 2014, Minturn filed oppositions to the motions to set aside the various court orders and the entry of Moreno's default, arguing that the motion was untimely, procedurally defective, and without merit. As part of this opposition, it was pointed out that Respondent had waited more than six months to file the motion to set aside the default, notwithstanding the absolute time limit set for in Code of Civil Procedure section 473, and that none of the requests for relief had been filed within a reasonable time, as also required by the statute. With regard to

the request seeking relief from the summary judgment order, the opposition pointed out that Respondent had failed to attach to his motion any opposition to the motion, as is also required by section 473(b).

On June 6, 2014, in apparent response to the opposition to the motion to have the summary judgment set aside, Respondent filed a belated and untimely opposition to Minturn's prior motion for summary judgment.

On June 6, 2014, notice of the April 23, 2014, judgment was filed.

On June 13, 2014, the court denied Respondent's Motion for Order Vacating and Setting Aside Default Judgment, Admissions Deemed Admitted, Sanctions, and Summary Judgment. While the court's order does not specify the reason(s) for its denial, the parties to the instant disciplinary proceeding have stipulated that the motion for relief filed on May 16, 2014, was untimely.

On November 19, 2014, Moreno sent Respondent a letter, requesting Respondent to provide him with a copy of his file. The letter also requested Respondent to provide a status update regarding the notice of appeal that Respondent had agreed to file. Respondent did not respond to this letter.

On December 11, 2014, Moreno sent Respondent a follow-up letter, stating that Moreno had not received any response to the November 19, 2014 letter. Moreno again requested a status report regarding the possible appeal and reiterated Moreno's request that Respondent return Moreno's client file. In this letter, Moreno indicated that, if Respondent did not respond to this letter, Moreno would complain to the State Bar. Despite this threat, Respondent neither responded to the letter nor returned Moreno's file to him.

On January 20, 2015, Moreno's business attorney, Newell Cumming, sent a letter to Respondent, complaining of Respondent's failure to respond to Moreno's prior requests for

status reports and again requesting Respondent to return Moreno's client file. Attorney Cumming described Moreno's need to have access to his file as "imperative." Despite the appearance of an attorney representing Moreno on this issue, the attorney Cumming's discussion of the ethical implications of Respondent's disregard for his client, and Moreno's need to have access to the requested file, Respondent neither provided a response nor returned the file.

To date, Respondent has still not returned the client file to Moreno or Cumming.

On May 27, 2015, the State Bar sent a letter to Respondent, informing him that a complaint had been received by it from Moreno and asking him to respond to the various allegations of misconduct being made against him. The letter also asked Respondent to provide various specified documents regarding the Moreno matter.

Although the State Bar was initially notified by another attorney that he was representing Respondent in the State Bar matter, that attorney subsequently notified the State Bar that he was no longer representing Respondent. As a result, the State Bar wrote to Respondent on September 1, 2015, pointing out that it had never received a response to its prior inquiry and asking Respondent to provide one. The letter noted that Business and Professions Code section 6068, subdivision (i), requires attorneys to cooperate with and participate in disciplinary investigations. Nonetheless, the parties have stipulated, and this court finds, that Respondent did not provide a substantive response to the State Bar's letters of May 26, 2015, and September 1, 2015.

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."

The parties have stipulated, and this court finds, that Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of Rules of

Professional Conduct, rule 3-110(A), by failing to supervise his contract paralegal between June 28, 2013, and December 6, 2013; failing to file an answer to the cross-complaint on or before November 15, 2013; failing to respond to discovery requests on or before December 5, 2013; failing to oppose defendant's motions to compel discovery on or before December 5, 2013; failing to oppose defendant's motion for summary judgment on or before March 7, 2014; and failing to timely file a motion to set aside Moreno's default on or before May 14, 2014.

Count 2 – Rule 3-700(D)(1) [Failure to Release File]

Rule 3-700(D)(1) provides: "A member whose employment has ended shall: (1) Subject to any protective order or non-disclosure agreement, promptly release to the client, at the request of the client, all the client's papers and property. 'Client papers and property' includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports, and other items reasonably necessary to the client's representation, whether the client has paid for them or not [.]"

The parties have stipulated, and this court finds, that Respondent willfully violated rule 3-700(D)(1) by failing to release all of the client's papers and property promptly to Moreno after termination of Respondent's employment on or about December 11, 2014, and following the client's request for the client's file on November 19, 2014.

Count 3 – Section 6068, subd. (i) [Failure to Cooperate in State Bar Investigation]

Section 6068, subdivision (i), 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.

The parties have stipulated, and this court finds, that Respondent willfully violated section 6068, subdivision (i), by failing to provide a substantive response to the State Bar's

letters of May 26, 2015 and September 1, 2015.[5] (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 644 [attorney may be found culpable of violating § 6068, subd. (i), for failing to respond to State Bar investigator's letter, even if attorney later appears and fully participates in formal disciplinary proceeding].)

Count 4 - Section 6068, subd. (m) [Failure to Respond to Client Inquiries]

Section 6068, subdivision (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."

The parties have stipulated, and this court finds, that Respondent willfully violated section 6068, subdivision (m), by failing to respond promptly or at all to the repeated status inquiries made by Respondent's client, Robert Moreno, beginning February 13, 2014. (*In the Matter of Regan* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844, 855.)

Case No. 15-N-15301 (Failure to Comply with Rule 9.20 Obligation)

On September 30, 2014, the State Bar filed State Bar case No. 14-O-03658 against Respondent, alleging that he had violated certain of the probation conditions imposed by the Supreme Court in 2012.

On January 23, 2015, Respondent entered into a Stipulation Re Facts, Conclusions of Law and Disposition (Stipulation) with the State Bar in case number 14-O-03658. On February 19, 2015, the Hearing Department of this court filed an order approving the stipulation and recommending to the California Supreme Court the discipline set forth in the Stipulation.

On June 19, 2015, the California Supreme Court filed order number S226058 (State Bar Court case No. 14-O-03658), suspending Respondent from the practice of law for two (2) years,

[5] The court notes that portions of this misconduct occurred after Respondent had been disciplined for the third time on June 19, 2015, and while he was on probation.

stayed, and placing Respondent on probation for three (3) years, subject to the conditions of probation included in the Stipulation and recommended by the Hearing Department in its February 19, 2015 order. Because these conditions required that Respondent be actually suspended for one year, Respondent was also ordered to comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in that matter. Because that order became effective on July 19, 2015, Respondent was obligated to comply with subdivision (c) of rule 9.20 on or before August 28, 2015.

On July 29, 2015, Respondent filed with the State Bar Court a handwritten rule 9.20 declaration and served it on the Office of Probation. Other than providing new contact information for Respondent, this declaration merely stated that Respondent, "to the best of [his] knowledge and belief," had complied with the requirements of rule 9.20(c). The declaration made no specific statement as to whether Respondent had complied with the requirements of subdivision (a) of the rule, and it provided no specific information as to what, if anything, Respondent had done to be in compliance.

On August 3, 2015, the Office of Probation informed Respondent that this rule 9.20 declaration was insufficient because the penalty of perjury affirmation was inadequate and the declaration itself did not demonstrate full compliance with rule 9.20. The letter provided Respondent with a blank rule 9.20 compliance declaration, informed him that additional forms were available on the State Bar's website, and advised Respondent to follow the instructions on the form in filling it out – "including that any original be filed with the State Bar Court." (Ex. 25.)

On August 18, 2015, Respondent completed a blank rule 9.20 compliance declaration. Despite the explicit instructions from the Office of Probation, Respondent neither followed the

instructions on the form nor filed it with the State Bar Court. Although the form is explicit in stating that the form was to be completed by "checking one box per question" [underlining in original], Respondent checked every box for every question on the form – thus rendering it meaningless. Then, he only sent the completed form to the Office of Probation, contrary to both the written instruction on the form and the direction he had previously received from the Office of Probation. That the form must be filed with the State Bar Court is a specific requirement set forth in rule 9.20(c).

On August 25, 2015, the Office of Probation sent a letter to Respondent, at his official membership records address, outlining all of the terms of the Supreme Court order, as well as reminding Respondent that his rule 9.20 declaration was due by August 28, 2015. This letter included a blank rule 9.20 compliance declaration that Respondent could use to comply with his rule 9.20(c) obligation and emphasized that rule 9.20 compliance declarations were required to be filed with the State Bar Court, not the Office of Probation.

On September 10, 2015, the Office of Probation sent a letter to Respondent, by both mail and email, informing him that his rule 9.20 declaration had been due on August 28, 2015, and that no adequate ("compliant") declaration had been filed with the court by that deadline. The letter explained that, while Respondent had sent his August 18, 2015 compliance declaration to the Office of Probation on August 19, 2015, it had not been filed with the State Bar Court and the Office of Probation does not file such statements on the member's behalf. The letter advised Respondent that his failure to file a compliant and timely rule 9.20 compliance declaration could result in additional discipline and encouraged him to take appropriate precautions that a compliant statement is filed with the State Bar Court.

On October 9, 2015, Respondent filed a purportedly new compliance declaration with the State Bar Court. (Ex. 1004.) It was merely a reproduced copy of the 9.20 compliance

declaration filled out and signed by Respondent on August 18, 2015, with the original date and contact information "whited-out" and a new date and new contact information provided. Like the prior form, all of the boxes for all of the questions on the form remained checked – thus violating the instruction on the form and rendering the declaration meaningless.

As previously noted, disciplinary charges were formally filed against Respondent in July 2016, based on his failure to timely file a compliant rule 9.20 compliance declaration. On September 14, 2016, more than a year after it was due, Respondent belatedly filed with the State Bar Court a fully compliant rule 9.20 compliance declaration.

Count 5 – California Rules of Court, rule 9.20 [Failure to Obey Rule 9.20]

Rule 9.20(c) mandates that Respondent "file with the Clerk of the State Bar Court an affidavit showing that he . . . has fully complied with those provisions of the order entered under this rule."

Respondent has stipulated, and this court finds, that Respondent is culpable of willfully violating the obligation imposed on him by the order of the California Supreme Court, to comply with rule 9.20, subdivision (c), of the California Rules of Court within 40 days after the effective date of that order.

Case No. 16-O-11297 (Probation Violations)

On November 19, 2012, the California Supreme Court filed order No. S205213 (State Bar Court case Nos. 07-O-13599, 08-O-11153, 08-O-12852, 08-O-12955 and 09-O-11251), suspending Respondent from the practice of law for two (2) years, stayed, and placing Respondent on probation for three (3) years, subject to the conditions of probation recommended by the Hearing Department of this court in its decision filed July 12, 2012. That July 2012 decision was issued by this court only after Respondent had been accepted into the Alternative Discipline Program on February 17, 2010, and had successfully completed the program on April

25, 2012. The recommended conditions of probation, subsequently accepted and ordered by the Supreme Court, included that Respondent: (1) be actually suspended for six (6) months, with credit given for his inactive enrollment pursuant to section 6233 from August 15, 2011, through April 25, 2012; (2) pay restitution to three clients[6] by December 19, 2015; and (3) submit quarterly reports on or before each January 10, April 10, July 10 and October 10 during the period of his probation.

The Supreme Court order became effective on December 19, 2012. On December 12, 2012, even before the Supreme Court's order became effective, Probation Deputy Eddie Esqueda sent a letter to Respondent, outlining the various tasks that Respondent was required to complete pursuant to the Supreme Court's order and providing the specific deadlines, instructions, and sample forms for doing so. Respondent received the letter and on January 15, 2013, met in person with Probation Deputy Esqueda, during which meeting Probation Deputy Esqueda reviewed the conditions of probation with Respondent.

Because Respondent's probation began so close to the quarter ending on December 31, 2012, his first written quarterly report was due on April 10, 2013. In his quarterly reports, Respondent was obligated to provide proof of any restitution payments that he had made during the prior quarter. With the letter that the Probation Deputy sent to Respondent on December 12, 2012, were instruction sheets on both the completion of the quarterly reports and what evidence was required to provide proof of a restitution payment. (Ex. 32, pp. 11-15.) On April 9, 2013, Respondent filed the quarterly report due by April 10, 2013. To it, he attached as proof of restitution payments copies of receipts for United States Postal Service money orders. However,

[6] Pursuant to the decision issued by this court, Respondent was obligated to pay $1,000 to Rodolfo Barranco, with interest from July 26, 2007; $10,000 to Pilar Southard, with interest since February 1, 2003; and $13,000 to Alejandra Bernal, with interest from July 1, 2008.

there was nothing else included with these receipts to show that the money orders had actually been sent to, received, or cashed by any of the three individuals to whom restitution was owed.

On May 8, 2013, Probation Deputy Esqueda sent an email to Respondent, advising Respondent that the copies of the money orders Respondent submitted with his April 10, 2013, quarterly report were not sufficient proof of restitution payments and that proof of payment required proof that the payee "actually received the money orders." (Ex. 37.) When no such proof was provided with the quarterly report due on July 10, 2013, Probation Deputy Esqueda advised Respondent on August 13, 2013, via email, to review the proof of payment information sheet that was sent to Respondent on December 12, 2012.

On December 5, 2013, Probation Deputy Esqueda informed Respondent, via telephone, that the Office of Probation had not given Respondent any credit for having made any restitution payments because the documents Respondent submitted were not originals and lacked the required information. Respondent was again advised to read the proof of payment information sheet.

The deadline for Respondent to make full restitution to the three former clients was December 19, 2015. No additional information was subsequently provided to the State Bar to provide proof that complete restitution payments had been made to those three former clients, as required by the Supreme Court order. In fact, Respondent has now stipulated in this disciplinary proceeding that he failed to make restitution to the three former clients as required by the Supreme Court's order.

As part of Respondent's obligation to provide quarterly reports to the Office of Probation, he was required to report any additional disciplinary charges that had been filed or were pending against him during the prior quarter and to provide both the case number and status of any such case. As mentioned above, on September 30, 2014, the State Bar filed State Bar case No.

14-O-03658 against Respondent, alleging that he had violated certain of the probation conditions imposed by the Supreme Court in 2012.

When Respondent submitted on January 9, 2015, the quarterly report due on January 10, 2015, he checked the box on the report form indicating that no proceedings were pending against him in the State Bar Court. However, he then added a handwritten notation that he was "current [sic] engaged in disciplinary proceedings." No other information was provided. (Ex. 56, p. 1.)

On January 22, 2015, Probation Deputy Esqueda left a voice mail message for Respondent, advising Respondent to resubmit his January 10, 2015 quarterly report because it did not explain the status of Respondent's pending disciplinary matter.

On January 23, 2015, Respondent entered into a Stipulation of Facts and Conclusions of Law in State Bar case No. 14-O-03658.

On January 28, 2015, Probation Deputy Esqueda informed Respondent, via telephone, that Respondent still needed to submit another January 10, 2015 quarterly report, one that included a declaration regarding the status of State Bar case No. 14-O-03658.

On February 3, 2015, Respondent filed a revised January 10, 2015, quarterly report. To it he merely attached a copy of the stipulation that he had executed on January 23, 2015. (Ex. 58.) Respondent provided no other information about the status of the case. The attached document did not purport to have been signed by counsel for the State Bar or approved by this court. On the quarterly report form itself, Respondent again checked the box certifying that there were no proceedings pending against him in the State Bar Court, while simultaneously "checking" and indicating in an alternative box that there was a case pending against him.

On February 12-13, 2015, Probation Deputy Esqueda notified Respondent over the phone that his January 10, 2015 quarterly report filed on February 3, 2015, was still defective.

On February 20, 2015, more than a month late, Respondent filed a new and sufficient January 10, 2015 quarterly report.

On April 10, 2015, Respondent filed the quarterly report due on April 10, 2015. With regard to the status of the pending disciplinary case, he merely noted, in the portion of the form to be used for reporting probation violations, that he had previously reported on the case. There was no indication in the quarterly report regarding the current status of the case, including whether the stipulation had been approved by this court.

On April 21, 2015, Probation Deputy Esqueda sent an email to Respondent informing Respondent of the defects in the April 10, 2015 quarterly report. The email was returned as undeliverable. On May 22, 2015, Respondent filed a revised April 10, 2015, quarterly report, attaching the required declaration regarding the status of the pending disciplinary case.

Count 5 – Section 6068, subd. (k) (Failure to Comply with Probation Conditions)

Business and Professions Code section 6068, subsection (k), provides that it is the duty of every member to "comply with all conditions attached to any disciplinary probation, including a probation imposed with the concurrence of the attorney." The parties have stipulated, and this court finds, that Respondent willfully violated section 6068, subdivision (k), by failing to timely file the quarterly reports due by January 10, 2015, and April 10, 2015, and by failing to pay restitution to the three former clients, as ordered by the Supreme Court.

Case No. 16-O-13288 (Howard Matter)

In March 2015, William Howard (William) hired Respondent to represent his brother, Billy Reo Howard (Billy), in a criminal case in Kern County Superior Court, paying Respondent $10,000 in cash to do so. Respondent accepted this compensation from William without first obtaining the informed written consent of his new client, Billy.

On March 11, 2015, Respondent substituted into Billy Reo Howard's case as attorney of record.

Count 1 – Rule 3-310(F) (Accepting Fees from Non-Client)

Rule 3-310(F) provides, in pertinent part, that an attorney shall not accept compensation for representing a client from one other than the client unless the attorney obtains the client's informed written consent. The parties have stipulated and this court finds that Respondent, by receiving $10,000 of compensation from William Howard in March 2015 to represent Billy Reo Howard, without obtaining the informed written consent of Billy to do so, willfully violated the prohibition of rule 3-310(F)[7]

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct, [8] std. 1.5.) The court finds the following with respect to aggravating circumstances.

Prior Discipline

Respondent has been disciplined on three prior occasions.

First Discipline

Effective April 3, 2009, the Supreme Court suspended Respondent from the practice of law for a minimum of two years, stayed, and placed him on probation for three years on conditions including that he be actually suspended for a minimum of 90 days and until he provided proof to the State Bar's Office of Probation that he had paid specified sanctions and made specified restitution. (Supreme Court case No. S169574 [State Bar Court case Nos.

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[7] The court notes that this misconduct occurred while Respondent was still on probation as a result of the Supreme Court's order in 2012. Further, in his two quarterly reports due on April 10, 2015, discussed above, he inaccurately stated under penalty of perjury that he had complied with all of the provisions of the Rules of Professional Conduct during the quarter that included this stipulated violation of rule 3-310(F). (See Exhibits 62, p. 1, and 67, p. 1.)

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

05-O-04533, 07-O-11476].) Another condition of probation required Respondent to take and pass the State Bar's Ethics School within a year after the effective date of the Supreme Court's order.

Respondent's stipulated misconduct in that proceeding included violations of rule 3-110(A) [failure to act with competence] and rule 3-700(D)(2) [failure to refund unearned fees] in two matters and violations of section 6068, subdivision (m) [failure to advise client of significant developments]; section 6103 [failure to obey court order]; and section 6068, subdivision (i) [failure to cooperate in State Bar investigation].

Respondent's misconduct in this matter occurred between 2002 and 2005. The NDC was filed on November 27, 2007, and Respondent stipulated to the misconduct on November 7, 2008.

Second Discipline

On November 19, 2012, the Supreme Court filed order No. S205213, in State Bar cases Nos. 07-O-13599, 08-O-11153, 08-O-12852, 08-O-12955, and 09-O-11251, suspending Respondent for two years, stayed, and placing him on probation for three years, with conditions of probation including actual suspension of six months (with credit for his prior period of inactive enrollment pursuant to section 6233). In that consolidated matter, Respondent stipulated that he violated: (1) rule 1-300(A) by willfully aiding a person or entity in the unauthorized practice of law; (2) rule 3-110(A) by intentionally, recklessly or repeatedly failing to perform legal services with competence; (3) section 6068, subdivision (m), by failing to communicate with client(s); (4) rule 3-700(D)(2) by failing to return unearned fees; (5) rule 3-700(A)(2) by improperly withdrawing from employment; (6) section 6068, subdivision (j), by failing to update on the official membership records of the State Bar his current address and telephone number or an address to be used for State Bar purposes; and (7) sections 6068, subdivision (a), 6125 and 6126 by engaging in the unauthorized practice of law.

That proceeding eventually included the consolidation of three separate disciplinary proceedings, with the first NDC being filed on December 2, 2008, and the last being filed on September 27, 2010. After the first NDC was filed, Respondent sought in 2009 to be enrolled in the State Bar's Alternative Discipline Program (ADP), based on the nexus between his mental health and substance abuse issues and his misconduct in the matters. At the same time, he also signed a Participation Plan with the Lawyers Assistance Program (LAP). As the subsequent disciplinary cases were filed, they were consolidated with the first NDC and included in the Alternative Discipline Program.

In 2012, Respondent successfully completed both the Lawyers Assistance Program and the Alternative Discipline Program. The "low" discipline, that had previously been decided by the ADP Program Judge and agreed to by Respondent, was then recommended to and accepted by the Supreme Court. As part of that recommended discipline, Respondent received mitigation credit for his completion of the ADP and LAP.

The bulk of Respondent's misconduct in these matters occurred prior to the Supreme Court's order in the first disciplinary proceeding. However, some of the misconduct, such as his unauthorized practice of law in 2008 due to his failure to comply with his MCLE obligations, took place while the first disciplinary proceeding was pending. (See Ex. 74, pp. 54-55.) Further, while Respondent's misconduct for failing to return unearned fees to two separate clients commenced in July and November, 2007, respectively,[9] prior to the initiation of the first disciplinary proceeding, it continued throughout the pendency of the first disciplinary proceeding and up to and beyond the Supreme Court's order in this second disciplinary matter, despite the fact that Respondent had been previously disciplined for comparable misconduct in the first

[9] Ex. 74, pp. 23-27.

proceeding and notwithstanding his having been required to attend the State Bar's Ethics School during the twelve months ending April 3, 2010.[10]

Third Discipline

As previously noted, on June 19, 2015, the California Supreme Court filed order No. S226058 (State Bar Court case No. 14-O-03658), suspending Respondent from the practice of law for two (2) years, stayed, and placing Respondent on probation for three (3) years, subject to the conditions of probation including one year of actual suspension.

Respondent's misconduct in that matter consisted of his multiple violations of the probation conditions ordered by the Supreme Court in 2012, including failures to file timely quarterly reports in July 2013, October 2013, January 2014, and April 2014; and his failure to again attend the State Bar's Ethics School.

This prior record of discipline is a significant aggravating factor. (Std. 1.5(a).)

Multiple Acts of Misconduct

Respondent is culpable of multiple acts of misconduct. This is an aggravating factor. (Std. 1.5(b).

Harm

Standard 1.5(j) provides as an aggravating circumstance that the member's misconduct significantly harmed a client, the public or the administration of justice. Respondent's misconduct here caused significant harm to Moreno, who lost his own lawsuit and became

[10] The record of Respondent's second discipline, offered by the State Bar at trial and received in evidence as Exhibit 74, does not include either the NDC or the stipulation that the parties were required to execute as part of the ADP requirements regarding Respondent's misconduct in case No. 09-O-11251. (Cf. Rule of Proc., rule 5.106 ["A prior record of discipline comprises an authenticated copy of all charges, stipulations, findings, and decisions (final or not) reflecting or recommending that discipline be imposed on a party."].) As a result, it is not possible for this court to assess when the misconduct in that case occurred.

subject to a judgment in favor of his opponent as a result of Respondent's misconduct. This is an aggravating factor. (*In the Matter of Bach, supra*, 1 Cal. State Bar Ct. Rptr. 631, 646.)

Mitigating Factors

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.)

Cooperation

Respondent entered into an extensive stipulation of facts and admitted culpability for all of the allegations of misconduct made against him by the State Bar. This candor and cooperation by Respondent is a mitigating factor. (Std. 1.6(e); see also *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 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].)

Character/Community Service Evidence

Respondent presented good character testimony from more than a dozen individuals, representing a wide range of references in the legal and general communities and who are aware of the full extent of the member's misconduct. The individuals included attorneys, former clients, two pastors, and members of the business community. These witnesses also provided significant evidence regarding Respondent's energetic and frequently successful efforts on behalf of his clients, his pro bono activities, and his extensive work in his church and in the Hispanic and low-income communities. This is a strong mitigating factor. (Std. 1.6(f); see also *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785[pro bono and community service as mitigating factor]; see also *Rose v. State Bar* (1989) 49 Cal.3d 646, 665; *In the Matter of Casey* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117, 126; *In the Matter of Lybbert* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 297, 305 [10-15 hours per month of volunteer community and church work counseling

people in crisis.]; and *In the Matter of Crane and DePew* (Review Dept 1990) 1 Cal. State Bar Ct. Rptr. 139, 158.)

Remorse

Respondent sent a letter of apology to his former client Moreno in October 2016 and expressed remorse for his misconduct during the trial of this matter. This court, however, declines to afford Respondent mitigation credit for these purported expressions of remorse. They were neither spontaneous nor timely. (Std. 1.6(g) [mitigation credit for prompt, objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement].) Moreover, certain aspects of Respondent's misconduct, such as his failure to return Moreno's file, have yet to be remedied and are ongoing, depriving Respondent's expressions of remorse of any persuasive effect. Action – or, here, the absence of it – speaks louder than words.

Emotional Difficulties/Substance Abuse

Respondent seeks mitigation credit for the emotional stress and substance abuse problems created by the relationship he developed in "late 2013", with a woman in Bakersfield who eventually became his second wife. In addition to the significant relationship problems that developed and festered, causing Respondent to resume his abuse of alcohol, Respondent's professional life was hampered by his attempting to maintain his law practice in the Coachella area while commuting daily to and from Bakersfield.

Extreme emotional difficulties and alcohol abuse issues may be considered mitigating where it is established by expert testimony that they were responsible for the attorney's misconduct and the member establishes by clear and convincing evidence that the difficulties no longer pose a risk that the member will commit misconduct. (Std. 1.6(d); *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 701-702.)

The evidence offered by Respondent regarding the difficulties he had after beginning his relationship with his future wife in the latter part of 2013 does not provide clear and convincing evidence that those problems are a mitigating factor here. There was no expert testimony, or other convincing evidence, showing the required nexus between Respondent's misconduct and his emotional and alcohol problems, and at least a portion of that misconduct occurred prior to the start of Bakersfield relationship in late 2013.

Nor is there sufficient evidence for this court to conclude that any emotional and substance abuse problems suffered by Respondent in the past have now been satisfactorily resolved. Respondent remains married to the woman whom he blames for his ethical lapses. While he testified that he intends to file a dissolution action after this disciplinary proceeding is terminated, any such "assurance" falls far short of causing this court to conclude that the stress in Respondent's life will immediately stop and no longer pose a risk of future misconduct.

The same conclusion applies to Respondent's attribution of his misconduct to alcohol abuse. This is essentially the same pattern of alcohol abuse and resulting misconduct that caused this court to enroll Respondent in the Alternative Discipline Program in 2010 while he completed the Lawyers Assistance Program. He completed the LAP and ADP programs in 2012. The discipline he received in 2012 was lessened because of his successful completion of LAP – which formed the basis for this court's assessment that his potential to abuse alcohol had been resolved and no longer posed a threat of causing misconduct. Regretfully, Respondent now states that such was not the case. Instead, despite the training and guidance he had just received in the Lawyers Assistance Program from 2009 to 2012, as soon as a major stressor entered his life in 2013, he began drinking again to such an extent that he says that it was a cause of his many acts of misconduct. Under such circumstances, Respondent's recurring problems with alcohol cannot be viewed as a source of mitigation. To the contrary, it is a source of concern.

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney but to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, this 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.) The court then looks to the decisional law. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.) As the Review Department noted more than two decades ago in *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 419, even though the standards are not to be applied in a talismanic fashion, they are to be followed unless there is a compelling reason that justifies not doing so. (Accord, *In re Silverton* (2005) 36 Cal.4th 81, 91; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.) 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; *Gary v. State Bar* (1988) 44 Cal.3d 820, 828; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Standard 1.7(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.

The standard for assessing discipline for a violation of rule 9.20 is set out, in the first instance, in the rule itself. Rule 9.20(d) states, in pertinent part: "A suspended member's willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for

revocation of any pending probation." Respondent's wilful failure to comply with rule 9.20 is extremely serious misconduct for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) That said, both this court and the Supreme Court have, on occasion, imposed lesser discipline in situations where there has been timely compliance with subdivision (a) and where the violation merely arose from a late submission of the compliance affidavit mandated by subdivision (c). (See, e.g. *Shapiro v. State Bar* (1990) 51 Cal.3d 251; *Durbin v. State Bar* (1979) 23 Cal.3d 461; *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192; *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527.) In those cases, however, the courts emphasized the respondent's good faith, the presence of significant mitigating circumstances, and the absence of substantial aggravating circumstances. Respondent does not fall within the aegis of the above cases.

Respondent had previously been required to comply with rule 9.20 in 2009. Despite his presumed familiarity with the obligations created by the rule and the procedures for complying with them, his efforts in 2015 to comply with the rule were inexplicably defective. Then, even though he was repeatedly reminded by the Office of Probation of the need to comply with the rule, albeit on an untimely basis, he did not do so until September 14, 2016, nearly a year after it was due.

The other significant standard to be considered here is Standard 1.8(a), which provides that disbarment is appropriate in instances where the respondent has had two or more prior records of discipline, including a period of actual suspension, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct.

This will be Respondent's fourth discipline. He has been on probation and/or in the disciplinary process at all times since 2012. His history of misconduct dates back to 2002 and has continued without any significant break at all times to the present. The fact that his misconduct has continued, despite his history of being repeatedly disciplined and even while he was on probation, demonstrates an ongoing inability or unwillingness to comply with the rehabilitation efforts of the disciplinary process. This is especially true when the history of misconduct includes repeated discipline for violating the terms of the imposed discipline, as is the situation here. In such situations, the protection of the public and the profession requires that the stringent prophylactic measure of disbarment be effected, notwithstanding the presence of extensive character evidence and other mitigating factors. (See, e.g., *In the Matter of Snyder* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 593, 599-601; *In the Matter of Rodriguez* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480, 495-501.) Sadly, such is the case here.

At trial and in his post-trial brief, Respondent argues that the misconduct in this case overlaps with his prior discipline and that a *Sklar*[11] analysis would indicate that disbarment is not warranted. This court disagrees.

First, not all of the misconduct took place prior to the last discipline, witness the fact that Respondent's obligation to comply with rule 9.20 arose out of that third discipline. Moreover, some of his misconduct is ongoing.

Second, even when a *Sklar* analysis is conducted, given the history of Respondent's ongoing and multiple ethical transgressions, notwithstanding the extensive efforts of both the disciplinary process and the Lawyers Assistance Program, this court concludes that disbarment is required to protect against future misconduct.

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[11] Referring to *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618-619.

RECOMMENDED DISCIPLINE

Disbarment

The court recommends that respondent **Ruben Daniel Sanchez,** Member No. 164298, be disbarred from the practice of law in the State of California and that his name be stricken from the Roll of Attorneys of all persons admitted to practice in this state.

Restitution

Respondent must make restitution to Rodolfo Barranco in the amount of $1,000 plus 10 percent interest per year from July 26, 2007; Pilar P. Southard in the amount of $10,000 plus 10 percent interest per year from February 1, 2003; and to Alejandra Bernal in the amount of $13,000 plus 10 percent interest per year from July 1, 2008.[12]

California Rules of Court, Rule 9.20

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

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Respondent must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds, and such payment is enforceable as provided under Business and Professions Code section 6140.5.

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[12] These restitution obligations were imposed as conditions of probation by the Supreme Court in its 2012 order, and Respondent's failure to pay the restitution was one of the bases for his discipline in 2015. At trial, Respondent indicated that he had still not paid these obligations in full.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), it is ordered that **Ruben Daniel Sanchez,** Member No. 164298, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D)(1).)[13]

Dated: May 18, 2017.

DONALD F. MILES
Judge of the State Bar Court

[13] An inactive member of the State Bar of California cannot lawfully practice law in this state. (Bus. & Prof. Code, § 6126, subd. (b); see also Bus. & Prof. Code, § 6125.) It is a crime for an attorney who has been enrolled inactive (or disbarred) to practice law, to attempt to practice law, or to even hold himself or herself out as entitled to practice law. (*Ibid.*) Moreover, an attorney who has been enrolled inactive (or disbarred) may not lawfully represent others before any state agency or in any state administrative hearing even if laypersons are otherwise authorized to do so. (*Benninghoff v. Superior Court* (2006) 136 Cal.App.4th 61, 66-73.)

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 18, 2017, I deposited a true copy of the following document(s):

DECISION INCLUDING DISBARMENT RECOMMENDATION AND INVOLUNTARY INACTIVE ENROLLMENT ORDER

in a sealed envelope for collection and mailing on that date as follows:

☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

RUBEN D. SANCHEZ
RUBEN D SANCHEZ
69 265 EL DOBE RD
CATHEDRAL CITY, CA 92234

☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Shataka A. Shores-Brooks, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 18, 2017.

Angela Carpenter
Case Administrator
State Bar Court