

PUBLIC MATTER

FILED 

JUL 11 2019

**STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO**

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of)	Case No. 18-H-15995-MC
)	
CHARLES JOSHUA KATZ,)	DECISION
)	
State Bar No. 68459)	
_____)	

Introduction

In this reproof violation proceeding, Respondent Charles Joshua Katz is found culpable, by clear and convincing evidence, of violating conditions attached to a private reproof previously imposed on him by the State Bar Court. Respondent's reproof violations are disciplinable as willful breaches of prior State Bar Rules of Professional Conduct, rule 1-110.¹ (Cal. Rules of Court, rule 9.19(b).) In view of Respondent's reproof violations, the aggravating circumstances, and the significant mitigating circumstances, this court recommends that Respondent be suspended for one year, that execution of the one-year suspension be stayed, and that Respondent be placed on probation for one year, subject to certain conditions.

Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (OCTC) filed a one-count Notice of Disciplinary Charges (NDC) on December 21, 2018. Respondent filed a

¹ Unless otherwise indicated, all further references to rules are to the prior State Bar Rules of Professional Conduct operative through October 31, 2018.

response on January 10, 2019. The trial took place on April 16 and 17. The parties each filed closing briefs on May 1 and the court took the matter under submission that same day.

Findings of Fact and Conclusions of Law

Jurisdiction

Respondent was admitted to the practice of law in California on May 5, 1976, and has since been a licensed attorney of the State Bar of California at all times.

Facts

Respondent is a solo practitioner focusing on probate and family law. On May 26, 2017, Respondent entered into a Stipulation re Facts, Conclusions of Law, and Disposition (Stipulation) with OCTC. On June 12, the State Bar Court approved the Stipulation and imposed a private reproof. Accordingly, Respondent's one-year reproof period began on July 3, 2017, and ended on July 3, 2018.

Respondent was required to comply with certain reproof conditions, including:

- (1) Within 30 days from the effective date of discipline, Respondent must contact the Office of Probation of the State Bar of California (Probation) and schedule a meeting with the assigned probation deputy to discuss the terms and conditions of reproof. Respondent must meet with the probation deputy either in-person or by telephone.
- (2) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof.
- (3) A final report, containing the same information, is due no earlier than 20 days before the last day of the condition period and no later than the last day of the condition period.
- (4) Respondent must provide proof of passage of the Multistate Professional Responsibility Examination (MPRE) to Probation within one year of the effective date of the reproof.
- (5) If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each report a certificate certifying that he has maintained a Client Funds Account and maintained a written ledger for each client on whose behalf funds are held.

On June 20, 2017, Probation posted a letter (June 20 reminder letter) detailing the conditions of Respondent's private reproof on his private attorney profile page on the State Bar website. That same day, Respondent received an email from Probation, advising him that the June 20 reminder letter was available on his attorney profile and instructing him to review, download, and print the letter. The email explicitly stated that the letter would not be mailed to Respondent.

The June 20 reminder letter laid out various conditions of probation including July 3, 2018, as a deadline for Respondent to take and pass the MPRE. Further down, in the middle of a paragraph, the letter stated that the passing scaled score for the MPRE was 86. At the bottom of the letter, it stated that only the State Bar Court, and not Probation, could give Respondent an extension on any of the deadlines or a modification of the terms of probation. Included with this June 20 reminder letter were templates for the quarterly reports and the Client Funds Certificate (CFC) that were specifically formatted for Respondent.

Respondent is a "gentleman of the old school," and he has nothing to do with the computers in his office. For all emails, his assistant checks his account and prints out hard copies of each email, which Respondent then reviews. When he received the June 20, 2017, email from Probation, he instructed his assistant to visit the State Bar website. In the past, his assistants have accessed the website and reset the password if needed. On June 20, 2017, Respondent's office was unable to log in because of password issues.²

It is unclear exactly when Respondent first reviewed the June 20 reminder letter but most likely on or about August 4, 2017, when Probation mailed him a letter informing him that he was

² On June 20, 21, and 23, 2017, there were three attempts made to log into Respondent's official State Bar record profile. He did not make these attempts himself but believes his secretary may have.

not in compliance with the conditions of his private reproof. At that time, Probation included a copy of the June 20 reminder letter.³

In the August 4, 2017 letter, Probation stated that Respondent had not complied with the condition of his private reproof requiring him to schedule a meeting with his probation officer by August 2, 2017, and that he should contact Probation immediately. The letter further stated: “Please be reminded that LATE completion, submission, or filing of proof/documents, does not mean you are in compliance. You will **never** be in compliance because being even one day late means that you are not in compliance with the terms and conditions of your Reproof.”

(Emphasis in original.) Respondent called Probation on that same date and scheduled his initial telephonic meeting for August 7, 2017.

On August 7, 2017, Respondent and his probation officer held their initial telephonic meeting, during which Respondent confirmed that he received the June 20 reminder letter and supporting documents. In a calendaring error, Respondent called half an hour late into the meeting.

On October 2, 2017, Respondent timely submitted his first quarterly report for the period July 3, 2017, through September 30, 2017.⁴ This quarterly report used the customized template that Probation provided to Respondent.

Paula Kaddas, Respondent’s bookkeeper, manages his client trust account (CTA). On October 5, 2017, Respondent sent Probation his first CFC which had been prepared by Thomas Kane, an accountant who specializes in attorney CTAs. Respondent hired Kane when he learned

³ Respondent testified that he first saw the June 20 reminder letter sometime around June 20, 2017, but he was unsure if it was an email or a mail version. The investigator for Probation testified that, as the email states, this letter was not mailed to Respondent at that time. Respondent’s State Bar profile shows the letter was first accessed online on April 20, 2018.

⁴ Probation notified Respondent that there was an error in this quarterly report which Respondent corrected by filing an amended report on October 4, 2017.

that he was required to file the CFCs. The CFC Respondent submitted on October 5 was not on the template provided by Probation but Probation deemed it compliant.

Respondent took the MPRE on November 4, 2017, and received a scaled score of 81. Respondent sent Probation an email on December 13, in which he stated his score and that he was unsure if this was a passing score under his reprobation. He asked Probation to notify him if he needed to retake the exam. Respondent did not consult his June 20 reminder letter. In response, on December 20, Probation sent Respondent an email referring him back to his June 20 reminder letter and stating that the passing score is 86. Respondent immediately made arrangements to retake the MPRE at the next available date.

Respondent failed to submit his January 10, 2018, quarterly report on time. On that same date, he was required to submit a CFC as well. Kaddas attempted to email the CFC on January 10 but initially failed to attach it. The CFC was ultimately emailed on time, but due to the confusion, Respondent failed to send the quarterly report. Respondent received an email from Probation on January 18, 2018, stating that he had not submitted his quarterly report. He sent the report on that same day on the customized template he had received from Probation.

Respondent understood that the last day of his reprobation period was July 3, 2018. On July 10, 2018, Respondent sent an email to Probation highlighting some concerns. He stated that he had just noticed that his final quarterly report was due on July 3, 2018. He said that he had not noticed this date before and that it did not make sense to him, as his fourth quarterly report was due on October 10, 2018. Respondent also stated that he had received a score of 82 on the MPRE, but he understood that he was required to obtain a score of 86. Respondent suggested that his probation period be extended so that he could take the MPRE again and get a passing score. At the time, Respondent believed that Probation could have given him an extension.

Shortly after he sent the above email, Respondent sent another email that same day, July 10, 2018, in which he attached his CFC and quarterly report “due July 10, 2018.” On the front part of the quarterly report there are several dates preceded by corresponding checkboxes. One option states “Final Report Due: July 3, 2018” and an option right below states “July 10, 2018.” Respondent checked the box that stated July 10, 2018. Probation marked his July 10, 2018, quarterly report as not compliant because this final report was due on July 3, 2018, not July 10. Moreover, on this quarterly report, Respondent indicated that he passed the MPRE given on March 24, 2018. This statement is contrary to his prior statement to Probation just an hour earlier in which he stated he knew that his score was not a passing one.

In this quarterly report, Respondent self-reported a problem that had occurred with his CTA. In April 2018, Respondent had settled a personal injury lawsuit on behalf of a client, resulting in two settlement payments of \$15,000 and \$45,000, for a total of \$60,000. Respondent was to receive one-third, or \$20,000, of the total as his fee. When Respondent received and deposited the first settlement check of \$15,000 in April, his intent was to hold that amount in his CTA until he received the second settlement check, which he expected shortly. Instead, two checks were inadvertently issued from his CTA, one for \$10,000 to the client, and one for \$5,000 to Respondent, which Respondent deposited in his own bank account. When the second check for \$45,000 arrived, which was an out-of-state check that required 10 days to clear, two additional checks were issued which duplicated the original checks issued (i.e., \$10,000 to the client and \$5,000 to Respondent).

Respondent did not discover the error until July 6, 2018. Respondent immediately deposited \$15,000 into his CTA to reimburse the full amount issued in error, and thus, the issue was corrected without harm to the client. Respondent “deeply” regretted the error, both in his declaration attached to his report and at trial. The day after he discovered the error, Respondent

contacted Kane and took steps to avoid having this problem again. While this discrepancy upset Kane, who had balanced Respondent's CTA, he also viewed it as a mistake and not something that was material or done by Respondent fraudulently. Other than this issue, in the time he was working with Respondent on his CTA, Kane did not see any irregularities.

In response to Respondent's July 10, 2018, email regarding confusion of the due date of the final quarterly report, Probation sent an email on July 13.⁵ In this email, Probation stated that the report Respondent submitted on July 10 covered the period from April 1 through June 30, 2018. His final report was to cover the remaining days of his reprobation, specifically, the three days from July 1 through July 3, 2018. Respondent could have submitted a final report from April 1 through July 3, which is how the template is set up, or submitted a final report that just covered the last three days. For these same reasons, Respondent was not compliant with submitting his final CFC because he did not provide one covering the three days from July 1 through 3, 2018.

Probation's July 13, 2018, email also indicated that Respondent had not provided proof of passing the MPRE. While the email reminded Respondent that Probation could not extend compliance dates, it notably did not remind Respondent he could seek such an extension from the State Bar Court. This email again stated that Respondent would "**never**" be in compliance. (Emphasis in original.)

On August 31, 2018, Probation emailed Respondent a non-compliance letter. On September 14, Respondent sent Probation a final quarterly report and a final CFC, both of which Probation marked as untimely filed on September 18. Respondent passed the November 10, 2018, MPRE with a passing score of 95.

⁵ Respondent testified that he did not receive this email. Respondent received all other emails from Probation and he provided no reason for missing this one other than it may have gone to spam.

Conclusions of Law

Count One – Prior Rule 1-110 [Failure to Comply with Conditions of Reapproval]

Prior rule 1-110 provides that attorneys must “comply with conditions attached to public or private reapprovals or other discipline administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and rule 9.19, California Rules of Court.” When a reapproval becomes final, the conditions attached to it are presumed valid. (*In the Matter of Pyle* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 929, 933.) OCTC charged Respondent with six violations of conditions attached to his private reapproval.

First violation - Failure to Contact Probation Within 30 Days

It is undisputed that Respondent failed to contact Probation within 30 days after the effective date of his discipline, as required by the terms of his reapproval. Respondent provided inconsistent testimony at trial regarding why he missed his August 2, 2017, deadline to contact Probation. Under his testimony, he missed this deadline either because he miscalendared it or because he could not read his handwriting. The court does not find either credible. Instead it seems very likely that Respondent did not meet this deadline because he failed to access online the June 20 reminder letter from Probation which set forth the August 2, 2017, deadline. While Respondent’s office apparently made attempts to access the letter, these efforts were unavailing. In any event, regardless of Respondent’s ability to access the June 20 reminder letter online, the requirement that Respondent contact Probation within 30 days after the effective date of his discipline was a specific condition set forth in his private reapproval. Respondent therefore had notice of this requirement notwithstanding any reminder letter, and Respondent nevertheless failed to contact Probation timely. Under these circumstances, Respondent willfully failed to contact Probation within 30 days.

Second Violation - Failure to Timely Submit January 10, 2018, Quarterly Report

Respondent timely submitted the CFC due on January 10, 2018. However, despite Respondent's problems submitting this CFC, there was no reason he should not have also timely submitted the quarterly report due on the same date. As Respondent stated, the CFC was completed by Kaddas and Kane while the quarterly report was completed by him with his secretary's help. It appears that he missed the deadline due to inadvertence. Nevertheless, under these circumstances, Respondent also failed to timely submit his January 10, 2018, quarterly report.

Third and Fourth Violations - Failure to Timely Submit Final Report and Final CFC

By the terms of his underlying Stipulation and the order imposing a private reproof as discipline, Respondent's reproof period commenced on July 3, 2017, and ended July 3, 2018. In addition, the June 20 reminder letter, which Respondent admits that he received, states that his final report was due on or before July 3, 2018. Also, both the quarterly report form and the CFC form tailored to Respondent stated that the final report of each of these was due July 3, 2018. Finally, and most importantly, Respondent testified at trial that he was aware that his reproof period ended on July 3, 2018. However, Respondent did not submit his final quarterly report or his final CFC until July 10, 2018. The court concludes that this untimely filing constituted a failure to timely submit his final quarterly report and his final CFC.⁶

⁶ The court notes, however, that the form and the instructions provided by Probation regarding Respondent's final quarterly report and final CFC are confusing. At one place on each of the forms, it indicates that the final report is due on July 3, 2018, but at another place, the forms indicate a due date of July 10. Moreover, the instructions for the quarterly report merely set forth compliance dates of April 10th, July 10th, October 10th, and January 10th. Finally, the investigator for Probation testified that she told Respondent that he had to comply with the final deadline, but she did not say if she told him precisely what that date was. Nevertheless, prior to filing his final report, Respondent did not contact Probation to verify which date set forth on his form, July 3 or July 10, was the correct filing date. Instead, Respondent simply chose a date, and unfortunately he chose the wrong one.

Fifth Violation - Failure to Balance CTA Records From April 1 through June 30, 2018

The NDC charges Respondent with the failure to balance CTA records as set forth in his July 10, 2018, CFC. This CFC acknowledged Respondent's erroneous duplicate payments that Respondent made to himself and his client and which he reimbursed immediately upon recognizing his error. While these duplicate payments do not appear to have been intentional, and Respondent explained them credibly at trial, they are nevertheless willful as that term is defined for purposes of rule 1-110. (*In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 309 [in context of probation revocation and other disciplinary proceedings, willfulness simply means a general willingness to commit an act or make an omission; it does not require an intent to violate the law or probation condition and need not involve bad faith].) The court concludes that Respondent failed to balance his CTA records during this period as charged in the NDC.

Sixth Violation - Failure to Provide Proof of Completion of MPRE by July 3, 2018

Respondent admits that he did not take and pass the MPRE within one year after the effective date of his private reproof. Respondent took the MPRE two times during the period of his reproof but did not achieve a passing score.⁷ Then, when he realized he would be unable to take and pass the MPRE a third time within the one-year period, he nevertheless signed up to take the MPRE after the expiration of his reproof period. Upon taking the MPRE this third time, he achieved a passing score.

To the extent that Respondent claims that he was not sufficiently advised how to seek an extension of time, the court notes that Probation notified Respondent early in his reproof period, in his June 20 reminder letter, that he was required to file any request for an extension of time or

⁷ Respondent became confused about what constituted a passing score in California while taking the first MPRE. The court notes that the MPRE passing score of 86 is buried in the June 20 reminder letter from Probation and is easy to miss.

for modification of his reproof conditions in the State Bar Court. Although later, when it became clear that Respondent would need an extension of time to comply with his MPRE requirement, Probation did not remind Respondent to direct his request for an extension to the State Bar Court. Nevertheless Respondent was required to refer back to his July 20 reminder letter, where Probation did instruct him how to proceed. The court concludes that Respondent failed to provide proof of successful completion of the MPRE by July 3, 2018.

Aggravation⁸

OCTC bears the burden of proving aggravating circumstances by clear and convincing evidence. (Std. 1.5.) The court finds the following with respect to aggravating circumstances.

Prior Record of Discipline (Std. 1.5(a))

Respondent's underlying private reproof constitutes a prior record of discipline, which the court weighs as a factor in aggravation. (*Conroy v. State Bar* (1990) 51 Cal.3d 799, 805.)

Multiple Acts (Std. 1.5(b))

Respondent's multiple acts of misconduct constitute a factor in aggravation. (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 529 [failure to timely file two probation reports and cooperate with probation monitor constituted multiple acts of misconduct].) However, the weight assigned to Respondent's multiple acts is limited due to the relatively minor nature of some of Respondent's reproof condition violations.

Mitigation

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds the following with respect to mitigating factors.

⁸ All references to standards are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Cooperation with State Bar (Std. 1.6(e))

Respondent entered into a comprehensive stipulation of facts and admission of documents. Respondent's cooperation with OCTC warrants some consideration in mitigation. (Cf. *In the Matter of Lenard* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250, 260 [reduced mitigating credit given where attorney stipulates to facts and admission of documents but does not stipulate to culpability].)

Good Character Evidence (Std. 1.6(f))

Respondent presented good character testimony from four witnesses, all attorneys who have known Respondent for many years. Two of the attorneys share office space with Respondent and know his legal skills well. All the witnesses were generally aware of the charges. Nevertheless, they praised his integrity, honesty, and skills as a lawyer. Respondent has an excellent reputation in the legal community and he cares deeply for his clients. Respondent has taken the issue of the disciplinary charges very seriously. While these four witnesses are not an extraordinary showing of good character, they are entitled to significant weight "due to their familiarity with him and their knowledge of his good character, work habits and professional skills." (*In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 592.)

Remorse/Recognition of Wrongdoing (Std. 1.6(g))

Respondent expressed deep regret that his CTA was not balanced at any time during his reprobation period. He also took immediate additional steps with his accountant to ensure that the mistake would not occur again.

The court notes that, notwithstanding Probation's numerous somewhat discouraging statements to Respondent that he would "**never**" be in compliance after his first mistake in failing to contact Probation for the initial meeting, Respondent nevertheless remained in frequent

contact with Probation. He continued to attempt timely compliance with all reproof conditions, including taking and passing the MPRE several months after his reproof period had concluded but before the NDC was filed. This effort by Respondent shows his determination to complete his reproof conditions, even if late. In sum, the court gives Respondent significant mitigating credit for this showing of remorse and recognition of wrongdoing throughout this case.

Community Service

Respondent presented evidence of *pro bono* work and service to the community. For over 30 years, he has volunteered as a fee arbitrator for the State Bar and San Mateo Bar Association. Respondent has been a member of the San Mateo County Bar Association Client Relations Committee for more than 30 years and has periodically served as a member of the committee. Respondent has also served as a judge *pro tem* in San Mateo County. Respondent regularly volunteers for the San Mateo County Superior Court Family Law Self-Help Clinic and serves as a mediator for the San Mateo Superior Court Family Law Department.

While OCTC argues that Respondent has already received credit for this same community service, the court notes that Respondent presented evidence at trial that he has continued in his community service since the time of his prior discipline.⁹ The court therefore gives Respondent some credit in mitigation for his continued community service.

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; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; Std. 1.1.)

⁹ On March 25, 2019, Respondent received a letter from the San Mateo County Bar Association thanking him for serving as an arbitrator on its Attorney/Client Fee Arbitration panel and sending him an application to serve on a new mediation panel.

In determining the level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628). The standards, however, “do not mandate a specific discipline.” (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar 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 Silvertown* (2005) 36 Cal.4th 81, 92.) Second, the court looks to decisional law in determining the appropriate level of discipline. (*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.)

Standard 1.7 provides that if aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors. Due to Respondent’s prior record of discipline, the court also looks to standard 1.8(a) for guidance. Standard 1.8(a) states, in part, that when an attorney has a prior record of discipline, “the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.”

Standard 2.14 calls for “actual suspension” for willful violations of rule 1-110, but it does not provide a timeframe for the length of any actual suspension. Instead, it states that the degree of sanction depends on the nature of the condition(s) violated and the attorney’s unwillingness or inability to comply with disciplinary orders. Therefore, we look to comparable case law for guidance. (See *Snyder v. State Bar*, *supra*, 49 Cal.3d at pp. 1310-1311).

In the prior published cases dealing with violations of conditions of reproof, discipline ranges from a further reproof to 90 days' actual suspension, depending on mitigation, aggravation, and level of cooperation in the proceedings. (*Conroy v. State Bar*, *supra*, 51 Cal.3d 799 [60-day actual]; *In the Matter of Stansbury* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103 [90-day actual]; *In the Matter of Posthuma* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813 [reproof]; and *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697 [90-day actual].)

As delineated in the standard and the case law, the determination of the appropriate discipline in these matters is governed by the circumstances and attitude surrounding the attorney's breach of the reproof conditions and by the nature of the conditions breached.

As the court has noted, Respondent's reproof violations, while important, resulted from inadvertence rather than conscious inattention to duties. Importantly, Respondent has shown significant mitigation in this case, particularly in his attitude toward the disciplinary proceedings, his apparent determination to improve his CTA handling, and his desire to continue serving his community. As in *In the Matter of Posthuma*, *supra*, 3 Cal. State Bar Ct. Rptr. at p. 822, this court does not apply standard 2.14 strictly. Although Respondent is culpable of more reproof violations than in *Posthuma*, he has also demonstrated far more mitigation and a much better attitude toward these disciplinary proceedings. As noted, Respondent has always attempted to comply with his reproof conditions, keeping in close contact with Probation and showing determination to rectify the problem he had with his CTA. These factors indicate a reduced likelihood of future misconduct.

After measuring the nature and circumstances of Respondent's violations, as well as his attitude, against these factors in prior cases, this court concludes that a one-year stayed

suspension and a one-year probation, with appropriate conditions, will best serve the goals of attorney discipline.

RECOMMENDATIONS

Discipline – Stayed Suspension

It is recommended that Charles Joshua Katz, State Bar Number 68459, be suspended from the practice of law for one year, that execution of that suspension be stayed, and that Respondent be placed on probation for one year with the following conditions.

Conditions of Probation

1. Review Rules of Professional Conduct

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

2. Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions

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

3. Maintain Valid Official State Bar Address and Other Required Contact Information

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone

number. If Respondent does not maintain an office, he or she must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within 10 days after such change, in the manner required by that office.

4. Meet and Cooperate with Office of Probation

Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation court specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation court specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

5. State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court

During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official State Bar record address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.

6. Quarterly and Final Reports

a. Deadlines for Reports. Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.

b. Contents of Reports. Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

c. Submission of Reports. All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. Proof of Compliance. Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after

either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

7. No Ethics School/No Client Trust Accounting School

It is not recommended that Respondent be ordered to attend the State Bar Ethics or Client Trust Accounting Schools because he has successfully completed these courses within the last two years.

8. Client Trust Account Reporting/Accountant Certification

Respondent must comply with the following reporting requirements:

a. If Respondent possessed client funds, property, or securities at any time during the period covered by a required quarterly or final report, Respondent must submit with the report for that period a statement that:

- i. Respondent handled all such client funds, property, and/or securities in compliance with rule 1.15 of the Rules of Professional Conduct; and
- ii. Respondent complied with the "Trust Account Record Keeping Standards" adopted by the State Bar Board of Trustees, pursuant to rule 1.15(e) of the Rules of Professional Conduct.

For the first period for which such statement is required, the statement must be from a certified public accountant or other financial professional approved by the Office of Probation. For all subsequent periods for which such statement is required, the statement may be made by Respondent under penalty of perjury.

b. If Respondent did not possess any client funds, property, or securities during the entire period covered by a quarterly or final report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period.

9. Commencement of Probation

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.


Multistate Professional Responsibility Examination

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination because he successfully completed this examination on November 10, 2018.

Costs

It is further 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. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

Dated: July 11, 2019


MANJARI CHAWLA
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Court Specialist 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 San Francisco, on July 11, 2019, I deposited a true copy of the following document(s):

DECISION

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 San Francisco, California, addressed as follows:

JAMES ANTONE LASSART
MURPHY, PEARSON, BRADLEY & FEENEY
88 KEARNY ST 10TH FL
SAN FRANCISCO, CA 94108

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

DUNCAN C. CARLING, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 11, 2019.



Bernadette Molina
Court Specialist
State Bar Court