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PUBLIC MATTER

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

THE STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

ORIGINAL

In the Matter of)	Case No. 01-O-04478-RAH
ROBERT SPELGER,)	DECISION
Member No. 160114,)	
<u>A Member of the State Bar.</u>)	

INTRODUCTION

In this disciplinary proceeding, Respondent Robert Spelger is charged with failing to inform his client of significant developments and failing to perform with competence. The Office of the Chief Trial Counsel ("Trial Counsel") appeared by Deputy Trial Counsel David T. Sauber and Respondent represented himself.

This Court finds Respondent culpable, by clear and convincing evidence, and recommends, inter alia, that he be actually suspended from the practice of law in the State of California for a period of 120 days.

PROCEDURAL HISTORY

On September 27, 2002, the Notice of Disciplinary Charges ("NDC") was filed. Respondent filed his Response thereto on December 2, 2002.

On February 28, 2003, Trial Counsel filed a Motion for Leave to File Amended Notice of Disciplinary Charges, seeking to add a count for violation of Business and Professions Code section

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1 6090.5(a)(2). ¹After opposition was filed by Respondent on March 17, 2003, Trial Counsel's motion
2 was denied by this Court's order of March 21, 2003.

3 By order of the Court, Respondent's right to call witnesses was limited by virtue of his failure
4 to file a pretrial statement. Both parties were ordered by the Court on January 29, 2003, to file their
5 pretrial statements. When Respondent failed to do so, on March 17, 2003, the Court, on its own
6 motion, granted Respondent an extension of time to March 19, 2003, to file the statement. No
7 pretrial statement was filed by Respondent on March 19, 2003. At trial, Respondent informed the
8 Court that he did not intend to file a pretrial statement. As a result of Respondent's refusal to
9 comply with this Court's order, Respondent was precluded from offering any direct testimony from
10 witnesses other than himself. (Rules Proc. of State Bar, rule 211(f).²)

11 Trial was held on April 1, 2003. At the commencement of trial, Trial Counsel dismissed
12 count 3 of the NDC in the interest of justice. The trial continued on the remaining two counts.
13 Respondent requested a chance to rebut the testimony presented on the first day of trial. To
14 accommodate Respondent, trial was recessed until April 30, 2003. Prior to April 30, 2003,
15 Respondent filed a Motion for Dismissal of Charges. On April 30, 2003, trial reconvened.
16 Respondent appeared but had no evidence or testimony in rebuttal.³ Trial Counsel presented final
17 argument. Respondent waived final argument.

18 As part of the Court's ruling denying the Motion for Dismissal of Charges,⁴ the matter was
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20 ¹All further references to "sections(s)" shall refer to the Business and Professions Code,
21 unless otherwise indicated.

22 ²All further references to "rule(s)" shall refer to the Rules of Procedure of the State Bar of
23 California, unless otherwise indicated.

24 ³Respondent claimed that the mediator he intended to call as a witness refused to testify
25 on the ground that to do so would violate Evidence Code section 1119. However, Respondent
26 offered no evidence that he had subpoenaed this witness.

27 ⁴The Motion for Dismissal of Charges was based on the testimony of Mr. Rubin, who was
28 Xactimage's attorney in a mediation in the professional negligence case brought by Xactimage
against Respondent. The testimony concerned the question of who requested the language in a
settlement agreement calling for the withdrawal of the State Bar complaint as consideration for
the settlement. Respondent objected to this testimony on the sole ground that Mr. Rubin was not

1 taken under submission on June 26, 2003.

2 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

3 These findings of fact are based on the testimonial and documentary evidence presented at
4 the hearing, including the testimony of Respondent, the complaining witness Tuan Le, and Robert
5 Rubin, Esq.

6 **A. Jurisdiction**

7 Respondent was admitted to the practice of law in the State of California on December 1,
8 1992, and since that time has been an attorney at law and a member of the State Bar of California.

9 **B. Counts One and Two – Xactimage Internet**

10 Respondent was the owner of Marina Law Center, a law firm located at 13323 Washington
11 Blvd., Suite 202, Los Angeles, California 90066. In his capacity as owner, he had primary
12 responsibility for assuring that calendaring was properly maintained and all court hearings were
13 attended by counsel from the Marina Law Center.

14 On August 28, 1998, Xactimage Internet (“Xactimage”) retained Respondent to represent the
15 company in a breach of contract action against Du Business Company (“Du”). Tuan Le (“Le”) was
16 an officer and the majority shareholder of Xactimage. Le and his wife Wendy Chou (“Chou”), were
17 the primary contacts for Xactimage in its business relationship with Marina Law Center and
18 Respondent. The retainer agreement was signed by Lisa Rosenthal, an attorney duly authorized to
19 do so by Respondent. During their relationship with Respondent, Le and Chou had contact with
20 Respondent, as well as others in his office, including Lisa Rosenthal and Tim Green.

21 Respondent filed a complaint against Du on September 9, 1998, in Los Angeles Municipal
22 Court entitled *Xactimage Internet v. Du Business Company, Inc., etc., et al.*, Case No. 98 K 20203

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24 listed on Trial Counsel’s witness list. Later, in the motion, Respondent attempted to raise an
25 objection that allowing the testimony violated Evidence Code section 1119. After considering
26 the moving papers and opposition, this Court denied the motion on June 26, 2003 on the grounds
27 that the proper objection was not timely raised, that Evidence Code section 1123 contains an
28 exception to the rule in section 1119, and because the testimony of Mr. Rubin as to the author of
the language was not determinative of whether a violation of Business and Professions Code
section 6090.5(a)(2) occurred.

1 ("the Action"). Respondent filed a first amended complaint in the Action on October 19, 1998.⁵
2 Defendants answered and filed a cross-complaint in January 1999. On April 8, 1999, the Municipal
3 Court held a trial setting conference in the Action, and an associate from Respondent's office
4 attended. At that trial setting conference, a trial date of August 9, 1999, was set by the court. No
5 one from Respondent's office advised Le or Xactimage that the case had been set for trial or of the
6 pending trial date.

7 On April 30, 1999, cross-complainant filed an amended cross-complaint in the Action.
8 Respondent filed a motion to strike the cross-complaint on June 11, 1999, and a hearing on that
9 motion was set for August 3, 1999. On August 3, 1999, the court issued its ruling on the motion to
10 strike. Although the record is somewhat unclear, it appears that the motion was denied, since the
11 matter proceeded to trial without further amendments to the pleadings. Coincidentally, Le called
12 Respondent's office shortly before August 9, 1999, to find out the status of the case. He was not told
13 of the impending trial date.

14 On the date set for trial, August 9, 1999, neither Respondent nor anyone from his office
15 appeared.⁶ Since neither Xactimage nor any of its principals were advised of the trial date, they did
16 not appear. On that date, the court issued an order dismissing the complaint and entering default on
17 the cross-complaint. On August 16, 1999, the attorneys for Du filed and served notice of the
18 dismissal and the entry of default. Neither Xactimage nor any of its principals were notified of
19 Respondent's failure to appear for trial or of the dismissal of the complaint and the entry of default
20 on the cross-complaint.

21 On August 18, 1999, Respondent filed a motion for reconsideration, to restore the matter to
22 the civil active list, vacate the default, and set aside dismissal. Respondent did not notify Xactimage
23 of these motions. On September 3, 1999, the motions were denied. Respondent did not notify
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25 ⁵See Exhibit 2.

26 ⁶Respondent suggests in the record that he did not appear because he was engaged in
27 another trial in the same courthouse and that the matter was miscalendared. No evidence was
28 offered as to which date the case was calendared for, and as to whether Xactimage was even
notified of any such improperly calendared date.

1 Xactimage of the court's ruling on these motions. After denial of these motions, Respondent filed
2 a Notice of Appeal on September 27, 1999. Respondent did not notify Le or Xactimage of the filing
3 of a Notice of Appeal, nor did he obtain the consent of his client for his firm to handle the appeal.

4 Various documents were filed and served in support of the appeal of the lower court's
5 decision. On October 5, 1999, Respondent filed a Notice to Prepare Statement of Decision on
6 Appeal and Designating Papers and Records. On December 1, 1999, the court filed and apparently
7 served a Notice of Fee Due for Clerk's Transcript.⁷ On May 6, 2000, Respondent filed an
8 Appellant's Opening Brief. At some point, the exact date of which is unclear in the record, the
9 appeal was denied. The lower court's docket (Exhibit 2) lists several other filings during this period.
10 Neither these appellate documents nor any of the related deadlines were passed on to the client,
11 Xactimage, or any of its principals. Respondent did not inform Le that the appeal was dismissed.

12 On December 11, 2000, judgment was entered. On January 3, 2001, a writ of execution was
13 issued by the Los Angeles Municipal Court.

14 None of the above mentioned court appearances were mentioned to Le, nor to any other
15 representative of Xactimage. Le expected to be contacted by Respondent as to the status of the case
16 and as to the date set by the court for trial. In fact, Le did not learn of anything concerning the status
17 of the trial and resulting judgment until he was served with a Sheriff's levy for \$25,366.32,
18 representing the amount of the judgment, interest, and fees in the cross-complaint filed by Du.
19 Thereafter, Le was required to appear at a judgment debtor examination and had his company's bank
20 account garnished. That garnishment recovered \$1,434.03.⁸ Since that was insufficient to satisfy
21 the judgment amount, Le and his company entered into a payment plan with Du, calling for payments
22 of \$750 per month.

23 In order to recover the money he lost as a result of Respondent's actions, Xactimage filed a
24 professional negligence action against Respondent. As a result of a settlement of that action,

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26 ⁷Again, the record is unclear that Respondent was actually served with this fee notice;
27 however, the appeal went forward, so apparently the fee notice was received by Respondent and
the fees were paid.

28 ⁸See Exhibit 3.

1 Respondent agreed to pay approximately one-half of the judgment amount, or \$12,000.⁹

2 This judgment and the payments required to be made to Du have had a serious negative
3 impact on Le's business. In addition to the payments he is required to make, he was forced to retain
4 counsel in order to obtain a copy of the court records and then file the negligence case against
5 Respondent. After having difficulty paying his first attorney on an hourly basis, Le was forced to
6 retain a new attorney who could take the matter on a contingent fee basis. He has spent
7 approximately \$9,500 in attorneys' fees in this lawsuit.

8 Finally, Le testified to the emotional toll the process has exacted. He has changed the way
9 he conducts his business by investing more of his own time in day-to-day operations. He has been
10 forced to "shuffle things" in order to deal with the large debt load. The case has had an emotional
11 drain on him personally. Le was surprised and upset that this kind of a thing could happen in our
12 legal system.

13 **C. Count One - Section 6068(m)**

14 Trial Counsel proved by clear and convincing evidence that Respondent wilfully violated
15 section 6068(m). Section 6068(m) provides that it is an attorney's duty "[t]o respond promptly to
16 reasonable status inquiries of clients and to keep clients reasonably informed of significant
17 developments in matters with regard to which the attorney has agreed to provide legal services." By
18 failing to: (1) advise Le that the case had been set for trial; (2) advise Le of the pending trial date;
19 (3) notify Le that Respondent failed to appear for trial, resulting in the dismissal of the complaint
20 and the entry of default on the cross-complaint in the Action; (4) notify Le of the filing of the
21 motion for reconsideration, to restore the matter to the civil active list, vacate the default, and set
22 aside dismissal; and (5) notify Le of the filing of a Notice of Appeal and that the appeal was
23 dismissed, Respondent failed to keep his client informed of significant developments with regard
24 to his legal matter in wilful violation of section 6068(m).

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⁹See Exhibit 8.

1 (Standard 1.2(b)(iii). Not only did Respondent fail to communicate to his client significant
2 developments regarding the client's legal matter, the Court finds that Respondent's failure to
3 communicate was to such an extent and occurred over such a long period of time that Respondent's
4 misconduct rose to the level of concealment. After receiving notice of the trial date, Respondent
5 failed to advise his client of the date, despite multiple opportunities to do so. Respondent attended
6 a status conference where the trial date was once again confirmed. After the trial was missed,
7 resulting in the dismissal of the Action and the entry of default on the cross-complaint against his
8 client, Respondent failed to give this information to his client. While Respondent did attempt to
9 correct his failure to appear at trial by filing motions and an appeal, these actions were done secretly,
10 without his client's knowledge, so as to avoid letting the client know of Respondent's earlier mistake
11 or the steps taken to correct the error. Even when the appeal was dismissed, Respondent did not
12 inform Le of his failure to appear at trial or the steps he took to try to correct this error. In fact, Le
13 did not learn of the resulting judgment until he was served with a Sheriff's levy.

14 Respondent also engaged in overreaching by filing the appeal without the client's knowledge,
15 as such action by Respondent went beyond Respondent's original retainer agreement with the client.
16 Had Xactimage known that Respondent had not appeared at trial and had not prevailed on the
17 previous motions, it may well have elected to retain other counsel to conduct the appeal.

18 Furthermore, the Court finds that Respondent engaged in overreaching by entering into a
19 written settlement agreement with his client in connection with a professional negligence lawsuit
20 which the client filed against Respondent, which stated, "Upon receipt of the signed stipulation and
21 the payment of the initial \$1,000.00, Xactimage will request that its complaint against Robert
22 Spelger be withdrawn. [sic] with respect to the State Bar."¹¹

23 Respondent's conduct also harmed his client. (Standard 1.2(b)(iv).) Mr. Le testified that this
24 judgment had a substantial negative impact on his business. He is still repaying the judgment, and
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26 ¹¹While the Court will consider this in aggravation as evidence of overreaching, the Court
27 will not find it to be uncharged misconduct, as it does not meet the requirements needed to find
28 "uncharged misconduct' aggravation" as set forth in *Edwards v. State Bar* (1990) 52 Cal.3d 28,
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1 was required to pay attorneys' fees in his professional negligence case against Respondent.

2 During these disciplinary proceedings, Respondent lacked remorse or recognition of the
3 wrongfulness of his actions. (Standard 1.2(b)(v).)

4 DISCUSSION

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

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

13 In this case, the standards provide for the imposition of a sanction ranging from reproof to
14 suspension, "depending upon the extent of the misconduct and the degree of harm to the client."
15 (Standard 2.4(b).)

16 The standards, however, are only guidelines and do not mandate the discipline to be imposed.
17 (*In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 250-251.) "[E]ach
18 case must be resolved on its own particular facts and not by application of rigid standards." (*Id.* at
19 p. 251.)

20 The State Bar recommends that Respondent be actually suspended from the practice of law
21 for 90 days. However, the Court feels this amount of actual suspension is insufficient, given
22 Respondent's conduct and the aggravating circumstances set forth above. Most significant in the
23 Court's evaluation of the amount of actual suspension which is appropriate is Respondent's evident
24 failure to understand the seriousness of his actions and the impropriety of his failure to communicate
25 his error to the client. Throughout the proceeding, Respondent failed to recognize his wrongdoing
26 or exhibit remorse or any understanding of the problems he created for his client.

27 In determining the appropriate discipline to recommend in this matter, the Court is guided
28 by *In the Matter of Greenwood* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831 and *In the Matter*

1 of *Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459.

2 In *Greenwood*, the Review Department of the State Bar Court recommended that the attorney
3 be suspended from the practice of law for 18 months, that execution of said suspension be stayed,
4 and that the attorney be placed on probation for two years on conditions including a 90-day period
5 of actual suspension. The attorney in *Greenwood* was found culpable of misconduct in two client
6 matters.

7 In the first client matter, an out-of-state law firm hired the attorney to represent their client
8 in an action seeking damages for an injury the client sustained while visiting California. The
9 attorney did not appear at the mandatory status conference in the matter, resulting in the client's case
10 being dismissed. Thereafter, despite inquiries and promises by the attorney to reply, the attorney did
11 not inform the out-of-state counsel or the client of the dismissal. The attorney also failed to reply
12 to an inquiry by a State Bar investigator. The attorney was found culpable of wilful violations of
13 rules 3-110(A) and 3-700(A)(2) of the Rules of Professional Conduct and Business and Professions
14 Code section 6068(i).

15 In the second client matter, the attorney also failed to represent a client. The attorney failed
16 to respond to discovery requests, although he was given several time extensions and after being
17 sanctioned by the court for failing to do so. After giving the attorney further opportunities to respond
18 to the discovery, the court dismissed the client's case. Four months following the expiration of the
19 five-year statute, the attorney tried to obtain relief from the dismissal. In addition, the attorney did
20 not respond to several requests by the client for the return of her file and did not reply to an inquiry
21 by a State Bar investigator. The attorney was found culpable of wilful violations of rules 3-110(A)
22 and 3-700(D) of the Rules of Professional Conduct and Business and Professions Code sections
23 6068(m), 6068(b), 6103 and 6068(i). Several aggravating circumstances were found, including harm
24 to both clients.¹² However, no mitigating circumstances were found.

25 In *Nees*, the Review Department of the State Bar Court recommended that the attorney be
26 suspended from the practice of law for two years, the execution of said suspension was stayed, and
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28 ¹²Other aggravating circumstances were not discussed in the Review Department opinion.

1 the attorney was placed on probation for two years on conditions including that the attorney be
2 actually suspended for six months and until he makes restitution in the amount of \$7,000.00 plus
3 interest.

4 In *Nees*, the attorney abandoned the habeas corpus petition of an incarcerated client serving
5 a lengthy sentence, failed to appropriately respond to his client's reasonable status inquiries, failed
6 to promptly return a client's file on demand, failed to return the client's sizable advance fee even
7 after he agreed to return unearned fees, and failed to cooperate with the State Bar's investigation.
8 The Review Department further found that the attorney's retention of the client's advance fee
9 "approached a practical appropriation of [his client's] property" (*In the Matter of Nees, supra*, 3 Cal.
10 State Bar Ct. Rptr. at p. 465) and effectively prevented his client from seeking other counsel. In
11 aggravation, the attorney was found to have engaged in multiple acts of misconduct; his misconduct
12 significantly harmed his client, and he demonstrated indifference and a lack of insight into his
13 misconduct. No mitigating circumstances were found.

14 In this matter, Respondent failed to communicate significant developments about his client's
15 matter to his client, and he failed to perform legal services with competence. In aggravation,
16 Respondent engaged in multiple acts of misconduct, his misconduct was surrounded or followed by
17 acts of concealment and overreaching, the misconduct significantly harmed his client, and, during
18 these disciplinary proceedings, Respondent lacked remorse or recognition of the wrongfulness of his
19 actions. The Court therefore finds that Respondent's misconduct is slightly more egregious than that
20 of the attorney in *Greenwood* but less egregious than that of the attorney in *Nees*. The Court will
21 therefore recommend as appropriate discipline in the matter a period of actual suspension greater
22 than that imposed on the attorney in *Greenwood* but less than that imposed on the attorney in *Nees*.

23 RECOMMENDED DISCIPLINE

24 The Court recommends that Respondent **ROBERT SPELGER** be suspended from the
25 practice of law for two years, that execution of that suspension be stayed, and that Respondent be
26 placed on probation for two years, with the following conditions:

- 27 1. Respondent shall be actually suspended from the practice of law for the first 120 days of
28 probation;

- 1 2. During the period of probation, Respondent shall comply with the State Bar Act and the
2 Rules of Professional Conduct;
- 3 3. Respondent shall submit written quarterly reports to the Probation Unit on each January 10,
4 April 10, July 10, and October 10 of the period of probation. Under penalty of perjury,
5 Respondent shall state whether Respondent has complied with the State Bar Act, the Rules
6 of Professional Conduct, and all conditions of probation during the preceding calendar
7 quarter. If the first report will cover less than thirty (30) days, that report shall be submitted
8 on the next following quarter date, and cover the extended period. In addition to all quarterly
9 reports, a final report, containing the same information, is due no earlier than twenty (20)
10 days before the last day of the probation period and no later than the last day of the probation
11 period;
- 12 4. Subject to the assertion of applicable privileges, Respondent shall answer fully, promptly,
13 and truthfully, any inquiries of the State Bar's Probation Unit which are directed to
14 Respondent personally or in writing, relating to whether Respondent is complying or has
15 complied with the conditions contained herein;
- 16 5. Within ten (10) days of any change, Respondent shall report to the Membership Records
17 Office of the State Bar, 180 Howard Street, San Francisco, California, 94105-1639, and to
18 the Probation Unit, all changes of information, including current office address and telephone
19 number, or if no office is maintained, the address to be used for State Bar purposes, as
20 prescribed by section 6002.1 of the Business and Professions Code;
- 21 6. During the period of probation, Respondent shall comply with all remaining terms of the
22 settlement agreement entered into by Respondent and Xactimage, Inc. on January 29, 2003
23 (Exhibit 8), and shall provide to the State Bar's Probation Unit satisfactory proof of payment
24 of \$12,000.00 to Xactimage;
- 25 7. Within one (1) year after the effective date of the discipline herein, Respondent shall provide
26 to the Probation Unit satisfactory proof of attendance at a session of the Ethics School, given
27 periodically by the State Bar at either 180 Howard Street, San Francisco, California, 94105-
28 1639, or 1149 South Hill Street, Los Angeles, California, 90015, and passage of the test

1 given at the end of that session. Arrangements to attend Ethics School must be made in
2 advance by calling (213) 765-1287, and paying the required fee. This requirement is separate
3 from any Minimum Continuing Legal Education ("MCLE") requirement, and Respondent
4 shall not receive MCLE credit for attending Ethics School (Rules Proc. of State Bar, rule
5 3201);

6 8. Within 90 days of the effective date of the discipline herein, Respondent shall submit to the
7 Probation Unit satisfactory evidence of completion of no less than 8 hours of MCLE
8 approved courses in law office management. This requirement is separate from any MCLE
9 requirement, and Respondent shall not receive MCLE credit for attending these courses
10 (Rules Proc. of State Bar, rule 3201);

11 9. The period of probation shall commence on the effective date of the order of the Supreme
12 Court imposing discipline in this matter; and

13 10. At the expiration of the period of this probation, if Respondent has complied with all the
14 terms of probation, the order of the Supreme Court suspending Respondent from the practice
15 of law for two years shall be satisfied and that suspension shall be terminated.

16 It is further recommended that Respondent be ordered to comply with rule 955, California
17 Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule, within thirty
18 (30) and forty (40) days, respectively, after the effective date of the Supreme Court order herein.
19 **Wilful failure to comply with the provisions of rule 955 may result in revocation of probation;**
20 **suspension; disbarment; denial of reinstatement; conviction of contempt; or criminal**
21 **conviction.**¹³

22 It is further recommended that Respondent take and pass the Multistate Professional
23 Responsibility Examination ("MPRE") administered by the National Conference of Bar Examiners,
24 MPRE Application Department, P.O. Box 4001, Iowa City, Iowa, 52243, (telephone 319-337-1287)

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26 ¹³Failure to comply with rule 955 of the California Rules of Court could result in
27 disbarment. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Respondent is required to file a
28 rule 955(c) affidavit even if he has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d
337, 341.)

1 and provide proof of passage to the Probation Unit, within one year after the effective date of the
2 discipline herein. **Failure to pass the MPRE within the specified time results in actual**
3 **suspension by the Review Department, without further hearing, until passage. But see rule**
4 **951(b), California Rules of Court, and rule 321(a)(1) and (3), Rules of Procedure of the State**
5 **Bar.**

6 **COSTS**

7 It is further recommended that costs be awarded to the State Bar pursuant to Business and
8 Professions Code section 6086.10, to be paid in accordance with section 6140.7 of that Code. Until
9 costs are paid in full, Respondent will remain actually suspended from the practice of law unless
10 relief is obtained under rule 282 of the Rules of Procedure of the State Bar.

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14 Dated: September 17, 2003

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17 RICHARD A. HONN
18 Judge of the State Bar Court
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CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 September 17, 2003, I deposited a true copy of the following document(s):

DECISION, filed September 17, 2003

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:

ROBERT SPELGER ESQ
4244 VIA MARINA #333
VENICE BEACH, CA 90292 5232

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

David T. Sauber, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 17, 2003**.


Milagro del R. Salmeron
Case Administrator
State Bar Court