

FILED

JAN 12 2006 *HC*

**STATE BAR COURT
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LOS ANGELES**

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

<p>8 In the Matter of) 9 JERALD SCOTT BENNETT,) 10 Member No. 123450,) 11 <u>A Member of the State Bar.</u>)</p>	<p>Case No. 03-O-00803-RMT 03-O-01064 (S126672) ORDER TERMINATING ACTUAL SUSPENSION (Rule 205, Rules Proc. of State Bar)</p>
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13 On November 30, 2005, respondent Jerald Scott Bennett, through his counsel, David A.
14 Clare, filed a motion to terminate the actual suspension arising out of his default in this matter.¹ On
15 December 19, 2005, the Office of the Chief Trial Counsel of the State Bar (State Bar), by Michael
16 J. Glass, filed a response to this motion. On December 21, 2005, respondent filed an amendment
17 to the motion.

18 Where a respondent has complied with the requirements of Rule 205(c) and has agreed to
19 comply with probation conditions to be imposed, there is a presumption in favor of granting the
20 motion. (Rule 205(f).) Here, respondent has met his burden. Further, evidence sufficient to rebut
21 the presumption has not been adduced. As such, the motion is **GRANTED** and the actual
22 suspension imposed by the Supreme Court in its order filed October 12, 2004, in case no. S126672
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25 ¹This suspension was imposed by the California Supreme Court in case no. S126672
26 effective on November 11, 2004. The discipline imposed included two years' stayed suspension
27 and actual suspension of one year and until respondent completed specified restitution and until
28 this court granted a motion under rule 205, Rules Proc. of State Bar. Respondent provided proof
that he completed restitution as required. He also provided proof that he successfully completed
the Multistate Professional Responsibility Examination in March 2005, during the period of his
actual suspension.

1 will terminate subject to the probation conditions set forth below. He shall be entitled to resume the
2 practice of law in this State immediately upon payment of all applicable State Bar fees and
3 previously-assessed costs.

4 As a condition of terminating respondent's actual suspension, the court orders that respondent
5 be placed on probation for a period of three years, subject to the following conditions:

6 1. During the probation period, respondent shall comply with the State Bar Act and the Rules
7 of Professional Conduct.

8 2. Within ten (10) days of any change, respondent shall report to the Membership Records
9 Office of the State Bar, 180 Howard Street, San Francisco, California, 94105-1639, **and** to the Office
10 of Probation, all changes of information, including current office address and telephone number, or
11 if no office is maintained, the address to be used for State Bar purposes, as prescribed by section
12 6002.1 of the Business and Professions Code.

13 3. Respondent shall submit written quarterly reports to the Office of Probation on each
14 January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury,
15 respondent shall state whether respondent has complied with the State Bar Act, the Rules of
16 Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the
17 first report will cover less than thirty (30) days, that report shall be submitted on the next following
18 quarter date, and cover the extended period.

19 In addition to all quarterly reports, a final report, containing the same information, is due no
20 earlier than twenty (20) days before the last day of the probation period and no later than the last day
21 of the probation period.

22 4. Subject to the assertion of applicable privileges, respondent shall answer fully, promptly,
23 and truthfully, any inquiries of the Office of Probation which are directed to respondent personally
24 or in writing, relating to whether respondent is complying or has complied with the conditions
25 contained herein.

26 5. Respondent shall obtain psychiatric or psychological help/treatment from a duly licensed
27 psychiatrist, psychologist or clinical social worker at respondent's own expense a minimum of one
28 time each week in individual therapy sessions and shall furnish evidence to the Office of Probation

1 that respondent is so complying with each quarterly report. Help/treatment should commence
2 immediately, and in any event, no later than thirty (30) days after the effective date of the discipline
3 in this matter. Treatment shall continue for the period of probation or until a motion to modify this
4 condition is granted and that ruling becomes final.

5 If the treating psychiatrist, psychologist or clinical social worker determines that there has
6 been a substantial change in respondent's condition, respondent or the Office of the Chief Trial
7 Counsel may file a motion for modification of this condition with the Hearing Department of the
8 State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must
9 be supported by a written statement from the psychiatrist, psychologist, or clinical social worker by
10 affidavit or under penalty of perjury, in support of the proposed modification.

11 7. Within one year of the effective date of this order, respondent shall provide to the Office
12 of Probation satisfactory proof of attendance at a session of the Ethics School given periodically by
13 the State Bar at either 180 Howard Street, San Francisco, California, 94105-1639, or 1149 South Hill
14 Street, Los Angeles, California, 90015-2299, and passage of the test given at the end of the session.
15 Arrangements to attend Ethics School must be made in advance by calling (213) 765-1287, and
16 paying the required fee. This requirement is separate from any Minimum Continuing Legal
17 Education Requirement (MCLE), and respondent shall not receive MCLE credit for attending Ethics
18 School (Rule 3201, Rules Proc. of State Bar.).

19 8. Within one year of the effective date of the discipline herein, respondent shall submit to
20 the Probation Unit satisfactory evidence of completion of no less than six hours of MCLE approved
21 courses in law office management. This requirement is separate from any MCLE, and respondent
22 shall not receive MCLE credit for attending Ethics School (Rule 3201, Rules Proc. of State Bar.).

23 9. The period of probation shall commence on the effective date of this order.

24 This order shall be effective immediately upon service. Accordingly, respondent shall be
25 entitled to resume the practice of law in this State subject to the terms of the Supreme Court's

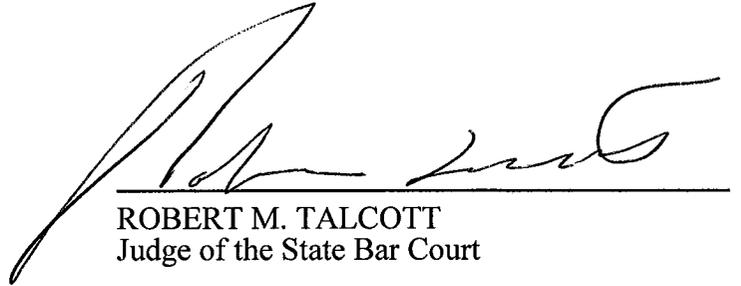
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1 October 12, 2005, order and to the aforementioned terms and conditions of probation and upon
2 payment of all applicable State Bar fees and previously-assessed costs.

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6 Dated: January 11, 2006


ROBERT M. TALCOTT
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 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 January 12, 2006, I deposited a true copy of the following document(s):

ORDER TERMINATING ACTUAL SUSPENSION

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:

David Alan Clare
4675 MacArthur Ct #1250
Newport Beach, CA 92660

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

DAVID SAUBER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 12, 2006**.



Tammy Cleaver
Case Administrator
State Bar Court