FILED MAY 22, 2006

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of **CHARLES CARTER SIMON**, **Member No. 86470**, A Member of the State Bar.	**Case No. 04-O-15292-RAP** **05-O-00503; 05-O-01801** **DECISION INCLUDING DISBARMENT RECOMMENDATION AND INVOLUNTARY INACTIVE ENROLLMENT ORDER**

I. INTRODUCTION

In this disciplinary matter, Diane J. Meyers appeared for the Office of the Chief Trial Counsel of the State Bar of California (State Bar). Respondent Charles Carter Simon did not appear in person or by counsel.

After considering the evidence and the law, the court recommends, among other things, that respondent be disbarred.

II. SIGNIFICANT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) was filed on October 21, 2005, and was properly served on respondent on that same date at his official membership records address, by certified mail, return receipt requested, as provided in Business and Professions Code section[1] 6002.1, subdivision (c) (official address). Service was deemed complete as of the time of mailing. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186.)

On October 27, 2005, respondent was properly served at his official address with a notice advising him, among other things, that a status conference would be held on November 21, 2005. He did not appear at the status conference. On November 22, 2005, he was properly served at his

[1]Future references to section are to the Business and Professions Code.

official address by first-class mail, postage prepaid, with an order memorializing the status conference and indicating that the State Bar was to file a default motion.

A First Amended NDC was filed on November 23, 2005, and was properly served on respondent on that same date at his official membership records address, by certified mail, return receipt requested.

Respondent did not file a responsive pleading to the First Amended NDC. On December 21, 2005, a motion for entry of default was filed and served on respondent at his official address by regular mail. The motion advised him that disbarment would be sought if he was found culpable. Respondent did not respond to the motion.

On January 6, 2006, the court entered respondent's default and enrolled him inactive effective three days after service of the order. The order was filed and properly served on him at his official address on that same date by certified mail, return receipt requested. The court judicially notices its records pursuant to Evidence Code section 452, subdivision (d)(1) which indicate that this correspondence was returned unclaimed by the United States Postal Service. The envelope bore part of a sticker that contained part of an address for respondent.

On January 10, 2006, a motion for entry of default was filed and properly served on respondent at his official address by certified mail, return receipt requested. The motion advised him that disbarment would be sought if he was found culpable. Respondent did not respond to the motion.

On January 25, 2006, the State Bar filed a brief regarding culpability and discipline and requested a waiver of default hearing.

On February 3, 2006, the court filed and properly served respondent at his official address by first-class mail, postage prepaid, with an order vacating the entry of default and the involuntary inactive enrollment.

On February 7, 2006, the court entered respondent's default and enrolled him inactive effective three days after service of the order. The order was filed and properly served on him at his official address on that same date by certified mail, return receipt requested. The court judicially notices its records which indicate that this correspondence was not returned as undeliverable.

The State Bar's efforts to contact respondent were fruitless except for one voicemail message received from him on November 22, 2005, in response to the State Bar's call the previous day.

The matter was submitted for decision without hearing after the State Bar waived hearing on February 8, 2006.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The court's findings are based on the allegations contained in the NDC as they are deemed admitted and no further proof is required to establish the truth of those allegations. (§6088; Rules of Proc. of State Bar[2], rule 200(d)(1)(A).) The findings are also based on any evidence admitted.

It is the prosecution's burden to establish culpability of the charges by clear and convincing evidence. (*In the Matter of Glasser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163, 171.)

A. Jurisdiction

Respondent was admitted to the practice of law in California on May 31, 1979, and has been a member of the State Bar at all times since.

B. Case no. 05-O-01801 (The Probation Violation Matter)

1. Facts

On April 30, 2004, respondent and the State Bar entered into a stipulation regarding facts, legal conclusions and disposition of State Bar Court case no. 02-O-15134. On May 14, 2004, the State Bar Court filed and properly served upon respondent's counsel an order approving the stipulation.

On September 13, 2004, in Supreme Court case no. S125996 (State Bar Court case no. 02-O-15134) (Supreme Court order), discipline was imposed consisting of stayed suspension for one year and until respondent complied with standard 1.4(c)(ii) and two years' probation on conditions including 30 days' actual suspension, among other things.

Pursuant to the Supreme Court order, respondent was ordered to comply with the

[2]Future references to the Rules of Procedure are to this source

following terms and conditions of probation, among others:

(a) During the period of probation, to submit a written report on January 10, April 10, July 10 and October 10 of each year or part thereof during which the probation is in effect to the State Bar Office of Probation (OP), stating under penalty of perjury that he has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period;

(b) To attend State Bar Ethics School and Client Trust Accounting School, pass the test given at the end of each session, and provide proof of completion to the OP within one year of the effective date of the Supreme Court order;

(c) Within 30 days of the effective date of the Supreme Court order, to submit to the OP satisfactory evidence of: (1) reconciliation of any and all of respondent's client trust accounts by a certified public accountant (CPA); or (2) with the assistance of a CPA, to establish at least one new client trust account that is maintained separately and apart from any of respondent's other client trust accounts in existence during the period from January 2, 2001, through December 26, 2003; and

(d) To file with the OP with each quarterly report a certificate from respondent, a CPA or other financial professional approved by the OP, a certificate that respondent properly kept and maintained specified client trust account records if he possessed any client funds at any time during the period covered by a quarterly report (certification). If he did not possess any client funds during that time, he was to so state in the quarterly report filed with the OP during the reporting period.

The Supreme Court order became effective on October 13, 2004, thirty days after it was entered. (Rule 953(a), California Rules of Court.) It was properly served on respondent.[3]

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[3]Although no proof was offered that the Clerk of the Supreme Court served the Supreme Court's order upon respondent, rule 24(a) of the California Rules of Court requires clerks of reviewing courts to immediately transmit a copy of all decisions of those courts to the parties upon filing. Moreover, it is presumed pursuant to Evidence Code section 664 that official duties have been regularly performed. (*In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.) Therefore, in the absence of evidence to the contrary, this court finds that the Clerk of the Supreme Court performed his or her duty and transmitted a copy of the Supreme Court's order to respondent immediately after its filing.

On November 22, 2004, the OP wrote a letter to respondent reminding him of certain terms and conditions of his suspension and probation imposed pursuant to the Supreme Court's order. The letter reminded respondent about the terms and conditions of his probation, among other things. The letter also warned respondent that failure to comply with the probation conditions could lead to further disciplinary proceedings. Enclosed with the letter were copies of the Supreme Court's order, the probation conditions portion of the stipulation and an instruction sheet and form to use in submitting quarterly reports as well as an enrollment form for Ethics School and Client Trust Accounting School.

The November 22, 2004, letter was mailed on that same date to respondent's official address via the United States Postal Service with first-class postage prepaid. This correspondence was not returned as undeliverable. Respondent received the letter.

Respondent did not submit to the OP the proof of reconciliation of his client trust accounts or proof of the establishment of a new trust account by November 12, 2004, as required. He also did not submit the quarterly report and certification due on January 10, 2005.

The OP sent respondent a second reminder letter on March 14, 2005. The letter reminded him that the January 10 quarterly report and certification had not been received nor had the trust account reconciliation or proof of new account that was due on November 12, 2004. Respondent was asked to submit these items immediately and was warned that there would be no further reminder letters. This letter was not returned as undeliverable. Respondent received it.

Respondent has not complied with the conditions of his probation. He has not submitted: (1) the trust account reconciliation or proof of new account that was due on November 12, 2004; (2) quarterly reports or certifications due on the tenth of January, April, July and October 2005; or (3) proof of successful completion of Ethics School and Client Trust Accounting School.

As of November 23, 2005, respondent has not complied with the aforementioned provisions of the Supreme Court's order.

2. Conclusions of Law

a. Count One - Section 6068(k) (Noncompliance with Probation Conditions)

Section 6068(k) requires an attorney to comply with all conditions attached to any

disciplinary probation, including a probation imposed with the concurrence of the attorney.

Respondent did not comply with disciplinary probation conditions in wilful violation of section 6068(k) because he has not submitted: (1) the trust account reconciliation or proof of new account that was due on November 12, 2004; (2) quarterly reports or certifications due on the tenth of January, April, July and October 2005; or (3) proof of successful completion of Ethics School and Client Trust Accounting School.

B. Case no. 04-O-15292 (The Monjoy Matter)

1. Facts

As previously noted, respondent was actually suspended from the practice of law in California from October 13 until November 12, 2004, pursuant to the Supreme Court's order. He received timely and proper notice of his suspension. He knew or should have known that he was suspended from the practice of law during this time period.

In and before October 2004, respondent was the attorney of record for plaintiff Dorothy Monjoy in the matter entitled *Dorothy Monjoy v. Henry Mayo Newhall Memorial Hospital, et al.*, Los Angeles Superior Court case no. PC034263Z (Monjoy case). Attorney Matthew R. Rungaitis represented the defendant hospital. Attorney Scott B. Cloud represented defendant ThyssenKrupp Elevator Corporation.

On October 14, 2004, respondent sent a letter via facsimile to Rungaitis and Cloud regarding the Monjoy case, asking them to respond as soon as possible. The letter and the facsimile cover sheet were printed on his law office letterhead. Respondent signed the letter above the typed-in name "Charles C. Simon, Esq."

On October 15, 2004, respondent had a notice of deposition and request to produce for the defendant hospital's custodian of records. The deposition was to be held on October 27, 2004. The notice and request were personally served on Rungaitis and served via facsimile on Cloud. The deposition notice was printed on pleading paper which identified respondent above the caption as "Esq.," "Attorney for Plaintiff" and included his State Bar number. Respondent signed the notice, which was dated October 15, 2004, above the typed-in name "Charles C. Simon Attorney for Plaintiff."

On October 15, 2004, respondent had a letter personally delivered to Rungaitis. It included copies of billing statements for services his client received from various medical providers. The letter indicated that the records were previously produced pursuant to a request to produce propounded by Rungaitis and for him to advise if he desired a more formal response. The letter was printed on his law office letterhead. Respondent signed the letter above the typed-in name "Charles C. Simon, Esq."

On October 15, 2004, respondent sent the same billing statements and a copy of the letter to Rungaitis to Cloud via facsimile. The facsimile cover sheets were printed on his law office letterhead.

On October 18, 2004, respondent had another notice of deposition personally delivered on Rungaitis and Cloud. This deposition, of one of Cloud's client's field technicians/mechanics, was scheduled for October 29, 2004. The deposition notice was printed on pleading paper which identified respondent above the caption as "Esq.," "Attorney for Plaintiff" and included his State Bar number. Respondent signed the notice, which was dated October 18, 2004, above the typed-in name "Charles C. Simon Attorney for Plaintiff."

On October 18, 2004, respondent served an expert witness designation and declaration by personal service on Rungaitis and by overnight delivery on Cloud. The expert designation was printed on pleading paper which identified respondent as "Attorney for Plaintiff" and included his State Bar number as well as containing the term "Law Offices of Charles C. Simon." The declaration accompanying the designation averred that respondent was the plaintiff's attorney. Respondent signed both the designation and the declaration, which were dated October 16, 2004, above the typed-in name "Charles C. Simon Attorney for Plaintiff."

Respondent did not notify Rungaitis or Cloud that he was suspended from the practice of law. Cloud discovered that fact on his own routine inquiry and shared it with Rungaitis. Respondent did not notify the court in the Monjoy case that he was suspended.

On October 26, 2004, the State Bar opened an investigation on case no. 04-O-15292 pursuant to a complaint filed by Rungaitis regarding allegations of misconduct by respondent in the Monjoy case.

On November 30, 2004, a State Bar investigator sent respondent a letter requesting that respondent answer in writing specific allegations of misconduct regarding the complaint. The letter was addressed to respondent's official membership records address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as undeliverable or for any other reason. Respondent did not answer the letter.

On January 4, 2005, the State Bar investigator sent respondent another letter requesting that respondent answer in writing specific allegations of misconduct regarding the Monjoy case complaint. The letter was addressed to respondent's official membership records address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as undeliverable or for any other reason. Respondent did not answer the letter.

2. Conclusions of Law

a. Count Two - Section 6068(a) (Engaging in the Unauthorized Practice of Law)

Section 6068, subdivision (a) requires an attorney to support the Constitution as well as state and federal laws.

Section 6125 requires an individual to be a member of the State Bar in order to practice law in California.

In relevant part, section 6126, subdivision (b) makes a person who has been suspended from membership in the State Bar and practices or attempts to practice, to advertise or to hold him- or herself out as practicing or entitled to practice law guilty of a crime punishable by imprisonment in the state prison or county jail.

By preparing, executing and sending or serving legal correspondence and documents that identified him as an attorney representing the plaintiff in the Monjoy case while he was actually suspended from the practice of law, respondent held himself out as entitled to practice law and actually practiced law when he was not so entitled. In so doing, he violated sections 6125 and 6126, subdivision (b) and failed to support the laws of this State in wilful violation of section 6068, subdivision (a).

b. Count Three - Section 6103 (Violation of Court Order)

In relevant part, section 6103 makes it a cause for disbarment or suspension for an attorney to wilfully disobey or violate a court order requiring him to do or to forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear.

Although respondent's conduct in continuing to represent Monjoy after he was suspended from the practice of law constitutes wilful disobedience of a court order in violation of section 6103, the factual basis for this violation is the same as that in Count One. It is generally inappropriate to find redundant charged allegations. The appropriate level of discipline for an act of misconduct does not depend on how many rules of professional conduct or statutes proscribe the misconduct. "There is 'little, if any, purpose served by duplicative allegations of misconduct.'" (*In the Matter of Torres* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138, 148.) Accordingly, this charge is dismissed with prejudice.

c. Count Four - Section 6106 (Moral Turpitude)

Section 6106 makes it a cause for disbarment or suspension to commit any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not.

There is clear and convincing evidence that respondent violated section 6106 by deliberately and repeatedly engaging in the unauthorized practice of law in this client matter and by not notifying the court or opposing counsel that he was actually suspended from the practice of law.

d. Count Five - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)

Section 6068(i) requires an attorney to participate and cooperate in any disciplinary investigation or other disciplinary or regulatory proceeding pending against him- or herself.

By not responding to the State Bar investigator's letters dated November 30, 2004, and January 4, 2005, respondent did not participate in the investigation of the allegations of misconduct regarding the Monjoy case in wilful violation of 6068(i).

C. Case no. 05-O-00503 (The Minasian Matter)

1. Facts

As previously noted, respondent was actually suspended from the practice of law in California from October 13 until November 12, 2004, pursuant to the Supreme Court's order. He received timely and proper notice of his suspension. He knew or should have known that he was suspended from the practice of law during this time period.

In and before October 2004, respondent was the attorney of record for defendant Edna Minasian in the matter entitled *John Vester v. Edna Minasian, et al.*, Los Angeles County Superior Court case no. EC038898 (Minasian case). Attorney Jeffrey D. Stearman was plaintiff's counsel.

On October 19, 2004, respondent served Stearman by mail with an inspection demand. The demand was printed on pleading paper which identified respondent above the caption as "Esq.," "Attorney for Defendant" and included his State Bar number. Respondent signed the demand, which was dated October 18, 2004, above the typed-in name "Charles C. Simon Attorney for Plaintiff."

Respondent did not tell Stearman or the court in the Minasian case that he was suspended from the practice of law. Stearman learned this fact months later while reading *California Lawyer* magazine.

On February 1, 2005, the State Bar opened an investigation on case no. 05-O-00503 pursuant to a complaint filed by Stearman regarding allegations of misconduct by respondent in the Minasian case.

On February 22, 2005, a State Bar investigator sent respondent a letter requesting that respondent answer in writing specific allegations of misconduct regarding the complaint. The letter was addressed to respondent's official membership records address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as undeliverable or for any other reason. Respondent did not answer the letter.

On March 10, 2005, the State Bar investigator sent respondent another letter requesting that respondent answer in writing specific allegations of misconduct regarding the complaint.

The letter was addressed to respondent's official membership records address and sent by first-class mail, postage prepaid. It was not returned to the State Bar as undeliverable or for any other reason. Respondent did not answer the letter.

2. Conclusions of Law

a. Count Six - Section 6068(a) (Engaging in the Unauthorized Practice of Law)

By preparing, executing and serving legal documents that identified him as an attorney representing the plaintiff in the Minasian case while he was actually suspended from the practice of law, respondent held himself out as entitled to practice law and actually practiced law when he was not so entitled. In so doing, he violated sections 6125 and 6126, subdivision (b) and failed to support the laws of this State in wilful violation of section 6068, subdivision (a).

b. Count Seven - Section 6103 (Violation of Court Order)

Although respondent's conduct in continuing to represent Minasian after he was suspended from the practice of law constitutes wilful disobedience of a court order in violation of section 6103, the factual basis for this violation is the same as that in Count One. As noted previously regarding Count Three, it is generally inappropriate to find redundant charged allegations. Accordingly, this charge is dismissed with prejudice.

c. Count Eight - Section 6106 (Moral Turpitude)

There is clear and convincing evidence that respondent violated section 6106 by deliberately engaging in the unauthorized practice of law in this client matter and by not notifying the court or opposing counsel that he was actually suspended from the practice of law.

d. Count Nine - Section 6068(i) (Failure to Participate in a Disciplinary Investigation)

By not responding to the State Bar's February 22 and March 10, 2005, letters, respondent did not participate in the investigation of the allegations of misconduct regarding the Minasian case in wilful violation of 6068(i).

IV. LEVEL OF DISCIPLINE

A. Aggravating Circumstances

It is the prosecution's burden to establish aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct[4], std. 1.2(b).)

Respondent has one prior instance of discipline. (Std. 1.2(b)(i).) In Supreme Court case no. S125996 (State Bar Court case no. 02-O-15134), discipline was imposed consisting of stayed suspension for one year and until he complied with standard 1.4(c)(ii) and two years' probation on conditions including 30 days' actual suspension. The parties stipulated that respondent was culpable, in one client matter, of violating rules 4-100(A) and 4-100(B)(4) of the Rules of Professional Conduct. Client harm was found as an aggravating circumstance. Mitigating factors included no prior discipline, remorse and the unlikelihood that the misconduct would reoccur.

Respondent's multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).)

Respondent's failure to participate in these proceedings prior to the entry of default is also an aggravating factor. (Std. 1.2(b)(vi).) He has demonstrated his contemptuous attitude toward disciplinary proceedings as well as his failure to comprehend the duty of an officer of the court to participate therein, a serious aggravating factor. (Std. 1.2(b)(vi); *In the Matter of Stansbury* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 104, 109.) The court notes, however, that the conduct relied on for this finding closely equals the misconduct giving rise to the finding of culpability under 6068(i) and correspondingly assigns little weight to this factor in aggravation. (*In the Matter of Bailey* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220, 225 [Respondent's failure to participate in disciplinary proceeding before entry of default found to be aggravating factor warranting little weight since conduct relied upon for the finding in aggravation so closely resembled the conduct relied upon for culpability finding under section 6068(i)].)

[4]Future references to standard or std. are to this source.

B. Mitigating Circumstances

Respondent bears the burden of establishing mitigation by clear and convincing evidence. (Std. 1.2(e).) Since respondent did not participate in these proceedings, the court has been provided no basis for finding mitigating factors.

C. 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. 1.3.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.6(a).) Discipline is progressive. (Std. 1.7.) There is no prerequisite for imposing any appropriate sanction for misconduct, including disbarment. (Std. 1.7(c).)

Standards 2.3 and 2.6(a) apply in this matter. The most severe sanction is found at standard 2.3 which recommends actual suspension or disbarment for culpability of an act of moral turpitude, fraud, intentional dishonesty or of concealment of a material fact from a court, client or other person, depending on the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the attorney's acts within the practice of law.

The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91, 92; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

Respondent has been found culpable of not complying with probation conditions and, in

two client matters, of engaging in the unauthorized practice of law and not cooperating with the State Bar's disciplinary investigation. Aggravating factors include one prior instance of discipline and multiple acts of misconduct. There are no mitigating factors.

The State Bar recommends disbarment and the court agrees.

The court found informative *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563. In *Taylor*, the attorney had committed serious misconduct in three client matters, including repeatedly practicing law while suspended, deceiving a court and client by filing an unauthorized lawsuit and not complying with his criminal probation by disobeying two separate court orders requiring him to provide support to his minor children. He also had a prior record of discipline and did not participate in either the present or past disciplinary proceedings. There were no mitigating circumstances. Accordingly, the Review Department found that respondent was not a good candidate for suspension and/or probation because "... these facts reflect respondent's disdain and contempt for the orderly process and rule of law and clearly demonstrate that the risk of future misconduct is great." (*Id.* at p. 581.)

Lesser discipline than disbarment is not warranted. The serious and unexplained nature of the misconduct, the lack of participation in these proceedings and the existence of a prior disciplinary record suggest that respondent is capable of future wrongdoing and raise concerns about his ability or willingness to comply with his ethical responsibilities to the public and to the State Bar. Having considered the evidence, the standards and other relevant law, the court believes that disbarment is the only adequate means of protecting the public from further wrongdoing by respondent. Accordingly, the court so recommends.

V. DISCIPLINE RECOMMENDATION

IT IS HEREBY RECOMMENDED that respondent CHARLES CARTER SIMON be DISBARRED from the practice of law in the State of California and that his name be stricken from the rolls of attorneys in this state.

It is also recommended that the Supreme Court order respondent to comply with rule 955(a) of the California Rules of Court within 30 calendar days after the effective date of the Supreme Court order in the present proceeding and to file the affidavit provided for in rule

955(c) within 40 calendar days after the effective date of the order showing his compliance with said order.

VI. COSTS

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

VII. ORDER REGARDING INACTIVE ENROLLMENT

It is ordered that respondent be transferred to involuntary inactive enrollment status pursuant to section 6007, subdivision (c)(4). The inactive enrollment shall become effective three days from the date of service of this order and shall terminate upon the effective date of the Supreme Court's order imposing discipline herein or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: May 19, 2006

RICHARD A. PLATEL
Judge of the State Bar Court