

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: 05-O-00933-RAH
	)	
<b>JENNY SCOVIS,</b>	)	<b>DECISION AND ORDER SEALING</b>
	)	<b>CERTAIN DOCUMENTS</b>
<b>Member No. 87026,</b>	)	
	)	
<u>A Member of the State Bar.</u>	)	

**I. INTRODUCTION**

In this disciplinary proceeding, respondent Jenny Scovis (“respondent”) was accepted for participation in the State Bar Court’s Alternative Discipline Program (“ADP”). As the court has now found that respondent has successfully completed the ADP, the court will recommend to the Supreme Court that respondent be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that she be placed on probation for two years subject to certain conditions, including a 60-day period of suspension.

**II. PERTINENT PROCEDURAL HISTORY**

In or about July 2006, respondent contacted the State Bar’s Lawyer Assistance Program (“LAP”) to assist her with her mental health issue. On July 13, 2006, respondent signed a LAP Participation Plan.

On March 28, 2007, the State Bar of California’s Office of the Chief Trial Counsel (“Office of the Chief Trial Counsel”) filed a Notice of Disciplinary Charges (“NDC”) against

respondent in case nos. 05-O-00933 (05-O-00934).<sup>1</sup> Respondent sought to participate in the State Bar Court's ADP. On August 13, 2007, this matter was referred to the ADP.

The parties entered into a Stipulation Re Facts and Conclusions of Law ("stipulation") in January 2008. The stipulation set forth the factual findings, legal conclusions and mitigating and aggravating circumstances involved in case no. 05-O-00933.

Following briefing by the parties, the court issued a Confidential Statement of Alternative Dispositions and Orders dated May 13, 2008, formally advising the parties of: (1) the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP; and (2) the discipline which would be recommended if respondent failed to successfully complete or was terminated from the ADP. After agreeing to those alternative dispositions, respondent and her counsel executed the Contract and Waiver for Participation in the State Bar Court's ADP; the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on May 23, 2008. That same day, the court lodged: (1) the Confidential Statement of Alternative Dispositions and Order; (2) the stipulation and its accompanying order; and (3) the Contract and Waiver for Participation in the State Bar Court's ADP.

Respondent participated successfully in both the LAP and the State Bar Court's ADP. On October 13, 2010, the court received a Certificate of One Year of Participation in the LAP - Mental Health. The court finds that respondent has successfully completed the ADP.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The parties' stipulation, including the court's order approving the stipulation, is attached and hereby incorporated by reference, as if fully set forth herein. In this proceeding, respondent stipulated to failing to perform legal services with competence, failing to keep a client

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<sup>1</sup> Case no. 05-O-00934 was later severed from the present proceedings.

reasonably informed of significant developments, failing to promptly respond to reasonable client status inquiries, failing to take reasonable steps to avoid reasonably foreseeable prejudice to her client upon termination of employment, and failing to cooperate and participate in a disciplinary investigation.

In aggravation, respondent committed multiple acts of misconduct, caused significant harm to her clients, and had a prior record of discipline (Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, stds. 1.2(b)(i), (ii), and (iv).)<sup>2</sup> In mitigation, respondent successfully completed the ADP. Respondent's successful completion of the ADP, which required her successful participation in the LAP, as well as the Certificate of One Year Participation in the Lawyer Assistance Program - Mental Health, qualify as clear and convincing evidence that respondent no longer suffers from the mental health issue which led to her misconduct. Accordingly, it is appropriate to consider respondent's successful completion of the ADP as a mitigating circumstance in this matter. (Std. 1.2(e)(iv).)

#### **IV. DISCUSSION**

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

In determining the appropriate alternative discipline recommendations if respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law. In particular, the court considered standards 1.3, 1.4, 1.5, 1.6, 1.7(b), 2.4(b), 2.6, and 2.10; and *In the Matter of Greenwood* (Review Dept. 1998) 3 Cal. State Bar Ct.

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<sup>2</sup> All further references to standard(s) or std. are to this source.

Rptr. 831; *In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131; *In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229; *Conway v. State Bar* (1991) 53 Cal. 3d 495; and *Chasteen v. State Bar* (1985) 40 Cal.3d 586.

Because respondent has now successfully completed the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the lower level of discipline, set forth more fully below, contained in the Confidential Statement of Alternative Dispositions and Orders.

## V. DISCIPLINE

It is hereby recommended that respondent **Jenny Scovis**, State Bar Number 87023, be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that she be placed on probation<sup>3</sup> for a period of two years subject to the following conditions:

1. Respondent Jenny Scovis is suspended from the practice of law for the first 60 days of probation.
2. Respondent Jenny Scovis must also comply with the following additional conditions of probation:
  - a. During the probation period, respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California;
  - b. Within ten (10) days of any change, respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California (“Office of Probation”), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;
  - c. Within thirty (30) days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent’s assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person or by

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<sup>3</sup> The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request;

- d. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than thirty (30) days, that report must be submitted on the next quarter date, and cover the extended period.

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

- e. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation which are directed to respondent personally or in writing relating to whether respondent is complying or has complied with the probation conditions;
- f. Within one (1) year after the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session; and
- g. Respondent must comply with all provisions and conditions of her Participation Agreement/Plan with the Lawyer Assistance Program (“LAP”) and must provide the Office of Probation with certification of completion of the LAP. Respondent must immediately report any non-compliance with any provision(s) or condition(s) of her Participation Agreement/Plan to the Office of Probation. Respondent must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and this court with information regarding the terms and conditions of respondent’s participation in the LAP and her compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition. Respondent will be relieved of this condition upon providing to the Office of Probation satisfactory certification of completion of the LAP.

At the expiration of the period of probation, if Jenny Scovis has complied with all conditions of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

It is also recommended that Jenny Scovis take and pass the Multistate Professional Responsibility Examination (“MPRE”) administered by the National Conference of Bar Examiners, MPRE Application Department, P.O. Box 4001, Iowa City, Iowa, 52243, (telephone 319-337-1287) and provide proof of passage to the Office of Probation in Los Angeles, within one year after the effective date of the discipline herein. Failure to pass the MPRE within the specified time results in actual suspension by the Review Department, without further hearing, until passage. (But see Cal. Rules of Court, rule 9.10(b), and Rules Proc. of State Bar, rule 5.162.)

## **VI. COSTS**

It is recommended that costs be awarded to the Office of the Chief Trial Counsel 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. DIRECTION RE DECISION AND ORDER SEALING CERTAIN DOCUMENTS**

The court directs a court case administrator to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 5.388 of the Rules of Procedure of the State Bar of California (“Rules of Procedure”), all other documents not previously filed in this matter are ordered sealed pursuant to rule 5.12 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court, and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their duties. Protected material will be marked and maintained by all authorized

individuals in a manner calculated to prevent improper disclosures. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

**IT IS SO ORDERED.**

Dated: March \_\_\_\_\_, 2011

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RICHARD A. HONN  
Judge of the State Bar Court