

Filed May 15, 2009

REVIEW DEPARTMENT OF THE STATE BAR COURT

In the Matter of

ROBERT S. PELCYGER,

A Member of the State Bar.

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05-O-03802

OPINION ON REVIEW

I. SUMMARY

For nearly 18 years, Robert S. Pelcyger engaged in the unauthorized practice of law (UPL). The State Bar Office of Chief Trial Counsel (State Bar) charged him with four counts of misconduct for UPL in California and Nevada, for acts of moral turpitude or dishonesty, and for collecting an illegal fee. The hearing judge found Pelcyger culpable of all counts and recommended he be suspended from the practice of law for one year with a three-year stayed suspension and five years' probation. Pelcyger seeks review. He challenges the recommended one-year suspension, claiming the trial court failed to accurately assess his conduct or to give proper weight to the mitigation evidence. The State Bar supports the recommended discipline. On independent review,¹ we adopt the hearing judge's findings, decision and recommendation for discipline, except we do not find lack of harm as a factor in mitigation.

II. STATEMENT OF FACTS

Pelcyger was admitted to practice law in California in 1969 and has spent his entire legal career representing Native American claims. After returning from England on a Fulbright scholarship, he worked briefly on a Navajo Indian Reservation. He then began to practice Indian

¹(*In re Morse* (1995) 11 Cal.4th 184, 207.)

law and worked in California for the Office of Indian Services and the Department of the Interior's Native American Rights Fund (NARF). In 1981, Pelcyger went into private practice in Colorado, and continued to represent NARF and other Indian tribes.² Over the years, he developed an expertise in asserting Indian rights to waters flowing through or along tribal lands. Pelcyger became a national authority in this area, developed a successful law practice and earned a reputation for excellence among clients, colleagues, and opponents.

From 1987 to 2005, Pelcyger began practicing law extensively in the Nevada state and federal courts, representing the Pyramid Lake Paiute Indian Tribe (Paiute Tribe) in seeking water and fishery rights. He appeared regularly before the U.S. District Court and the State Engineering Board. Although Pelcyger enjoyed an esteemed reputation in the Nevada courts, he never obtained admission to practice there. He was not a member of the Nevada state or federal bar, and the courts had not granted him permission to appear.

In fact, Pelcyger had unsuccessfully tried to obtain *pro hac vice* status to appear in the federal court. In 1987, at the direction of the court clerk, Pelcyger filed a *pro hac vice* petition, but the court did not rule on it. Pelcyger never followed up on the status of that petition. He testified he thought it had been granted, but his assumption was incorrect. In August 2005, he filed two more petitions. Again, the court did not rule on one, but the other petition was denied primarily because, under the local rules, Pelcyger was not entitled to *pro hac vice* status since he engaged in the practice of law on a regular basis in Nevada. The judge ruled: "The plain and simple reason for denying the *pro hac vice* application is that Mr. Pelcyger has engaged in substantial business and practice of law in Nevada over a long period of time"

²Pelcyger was never a member of the Colorado bar. However, he was able to practice in Colorado as a partner with Fredericks, Pelcyger & Hester, LLC, after the Colorado Supreme Court gave NARF limited permission to hire him to represent NARF's interests.

Pelcyger began to experience significant stress in his personal life from 1990 to 1995. His wife and child suffered life-threatening illnesses, and he was required to undergo surgery. Several close personal friends became seriously ill or died, and his widowed mother passed away from cancer after intensive treatment. Because of these stressors, Pelcyger had difficulty fulfilling his professional responsibilities.

On July 19, 1993, Pelcyger lost his eligibility to practice law in California. Although he completed his Mandatory Continuing Legal Education (MCLE), he failed to provide proof to the State Bar of California. He was placed on administrative “inactive” status. From September 1, 2001 to October 29, 2001, Pelcyger’s license to practice was suspended because he failed to pay his dues, which continued to accumulate even during his inactive enrollment. (Bus. & Prof. Code § 6143). After Pelcyger paid the delinquent fees and his suspension for failure to pay fees was terminated, the State Bar of California sent him a letter advising that he remained ineligible to practice law because of the MCLE non-compliance. Unfortunately, he ignored this notice.

From 1993 to 2005, Pelcyger held himself out as entitled to -- and did in fact -- practice law in California, even though he knew he was not authorized to do so. He used legal letterhead that stated he was admitted to practice law in California, and in 1994, he executed a retainer agreement entitled “Tribal Attorney Special Counsel Contract” on behalf of his firm to represent the Paiute Tribe. The contract recited that Pelcyger was “a fully licensed member in good standing of the bar of the State of California,” and was approved by the U. S. Department of the Interior. It was extended by written amendment in 1999, 2001, and 2003. Also, Pelcyger continued to represent a long-term client, the San Luis Rey Indian Water Authority (San Luis Rey), in negotiations and settlements in California. During this period of UPL, Pelcyger personally received a portion of the \$1.7 million in attorney fees his firm collected in the Paiute

Tribe cases. Throughout this time, Pelcyger never told anyone that he was not entitled to practice law in California.

Twelve years later, in 2005, opposing counsel discovered that Pelcyger did not have a valid license to practice law. The attorney reported the finding to a federal judge in Nevada. Pelcyger then submitted proof of MCLE compliance to the California State Bar, and his license to practice law was reinstated. Shortly thereafter, the State Bar filed charges.

III. CULPABILITY

A. Count 1 – Failure to Obey the Law (Bus. & Prof. Code, § 6068, subd. (a))³

We adopt the hearing judge's findings and conclusion that Pelcyger willfully violated his duty to comply with the laws of the state, as required by section 6068, subdivision (a), because he violated sections 6125 and 6126. Section 6125 prohibits the practice of law in California without active membership in the State Bar. Section 6126 prohibits an attorney from advertising or holding himself out as entitled to practice law without active membership. From 1993 to 2005, when his California license to practice was on inactive status, Pelcyger used legal letterhead, executed client contracts misrepresenting that he had an active California bar membership, and continued to represent San Luis Rey clients in California. He has clearly violated sections 6125 and 6126, thereby establishing the section 6068 violation. (See *In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 505-506 [appropriate method of charging violations of §§ 6125 and 6126 is by charging violation of § 6068, subd. (a).])

³Unless noted otherwise, all future references to statutes are to the provisions of the Business and Professions Code.

B. Count 2 – Unauthorized Practice of Law in Another Jurisdiction (Rules Prof. Conduct, Rule 1-300(B))⁴

We adopt the hearing judge’s findings and conclusion that Pelcyger violated rule 1-300(B) of the Rules of Professional Conduct. This rule prohibits the unauthorized practice of law in a jurisdiction where such practice is in violation of that jurisdiction’s professional regulations. He made unauthorized appearances in both the federal and state courts in Nevada from 1987 to 2005, in violation of the rules of practice associated with each court.

Pelcyger engaged in UPL when he appeared regularly before the U. S. District Court in Nevada. The local rules require attorneys who practice there to be either a member of the Nevada bar⁵ or admitted *pro hac vice*.⁶ From 1987 to 1993, although properly licensed in California, Pelcyger was not authorized to practice in Nevada federal court. He was not a member of the federal bar there, had not been admitted *pro hac vice*, and had not been granted any admission exception by the court. From 1993 to 2005, during his 12 years of inactive status in California, Pelcyger was not qualified to even petition the court for *pro hac vice* status because he lacked the fundamental requirement of being licensed in another state.

⁴Unless noted otherwise, all future references to rules are to the provisions of the Rules of Professional Conduct of the State Bar.

⁵Rule IA 10-1(a) states in part: “In order to practice before the District or Bankruptcy Court an attorney must be admitted to practice under the following provisions. An attorney who has been admitted to practice before the Supreme Court of Nevada, and who is of good moral and professional character, is eligible for admission to the bar of this court.” (U.S. Dist. Ct., Local Rules, Dist. Nev., rule IA 10-1(a).)

⁶Rule IA 10-2(a) states in part: “An attorney, who is not a member of the bar of this court, who has been retained or appointed to appear in a particular case may do so only with permission of the court. . . . The attorney may submit the verified petition if the following conditions are met: (1) The attorney is not a member of the State Bar of Nevada; (2) The attorney is not a resident of the State of Nevada; (3) The attorney is not regularly employed in the State of Nevada; (4) The attorney is not engaged in substantial business, professional, or other activities in the State of Nevada; (5) The attorney is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and (6) The attorney associates an active member in good standing of the State Bar of Nevada as counsel of record in the action or proceeding.” (U.S. Dist. Ct., Local Rules, Dist. Nev., rule IA 10-2(a).)

Pelcyger argues that he mistakenly believed he had been granted *pro hac vice* status in the federal court in 1987. This argument lacks merit. Even though he petitioned for *pro hac vice* authority to appear, it was never granted. The U.S. District Court in Nevada has enacted local rules which clearly identify the requirements and process for such admission. Pelcyger was obligated as an officer of the court to confirm that the petition had been granted before filing pleadings or making appearances. That obligation is an ethical one that rests with the attorney.

Pelcyger also engaged in UPL in Nevada when he repeatedly appeared before the State Engineering Board. The Nevada Administrative Code section 533.200(2) has required since 1995 that an attorney be either an active member of the State Bar of Nevada or associated with an active member to appear before the State Engineering Board. Pelcyger was neither, yet he practiced before that Board from 1995 to 2003. He asserts that he did not think of himself as practicing in the state court when he appeared before the Engineering Board because it was ancillary or connected to the federal cases in which he appeared in the U. S. District Court. This argument also fails since, as previously discussed, Pelcyger was not authorized to appear before the federal court from 1987 to 2005.⁷

C. Count 3 – Moral Turpitude, Dishonesty, or Corruption (§ 6106)

We adopt the hearing judge’s findings and conclusion that Pelcyger is culpable of moral turpitude and dishonesty, proscribed by section 6106. As we instructed in *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 910), “However else moral turpitude may be defined, it most assuredly includes creating a false impression by concealment as well as affirmative misrepresentations. [Citations].” Pelcyger both concealed and misrepresented the

⁷The Nevada Disciplinary Board (Board) filed charges against Pelcyger related to his UPL in the Nevada courts based only on the fact that his California license was inactive from 1993 to 2005. Pelcyger entered a plea to the charges. The Board imposed a public reprimand and a 22-month suspension from appearance in Nevada courts, and required payment of costs and proof of rehabilitation.

status of his California license to practice law. He was repeatedly dishonest with his clients, counsel, the Department of the Interior and the courts, and collected considerable fees by reason of this dishonesty.

Pelcyger argues he did not intentionally misrepresent his license status in the Paiute Tribe client contracts because he merely re-used an older standard fee agreement and he failed to note that it recited his good standing with the California Bar. However, this inattention to contract provisions contradicts Pelcyger's reputation as a careful, discerning practitioner and his own admission that he knew he was not entitled to practice law in California. We conclude that Pelcyger's misrepresentation was intentional and his 18 years of UPL clearly constitute moral turpitude.

D. Count 4 – Illegal Fees (Rule 4-200(A))

We adopt the hearing judge's finding and conclusion that Pelcyger willfully violated rule 4-200 (A), which provides that "[a] member shall not enter into an agreement for, charge, or collect an illegal or unconscionable fee." Pelcyger stipulated that the Department of the Interior's Bureau of Indian Affairs paid \$1,171,816.40 in attorney fees to his law firm for representing the Paiute Tribe from 1995 to 2004. While he could not estimate what percentage of fees were attributed to his individual work, he testified, "I benefitted from those fees in accordance with the distribution of income to the firm, in accordance with our agreement, our partnership agreement." We find Pelcyger charged and collected substantial illegal fees during his UPL. (*In the Matters of Wells, supra*, 4 Cal. State Bar Ct. Rptr. at p. 904 [even under contract, no entitlement to fees for services that constituted UPL].)

IV. MITIGATION

Pelcyger presented significant evidence in mitigation. The hearing judge found that he (1) had no prior record of discipline, (2) had not caused harm to clients, (3) had experienced

excessive stress in his personal life, (4) was candid and cooperative, (5) established good character, and (6) demonstrated remorse and took steps to atone for his misconduct. We adopt the hearing judge's findings of fact and credibility,⁸ conclusions of law, and assessment of mitigation, except that we do not find lack of harm in mitigation.

A. Lack of Prior Discipline (Rules Proc. of State Bar, Tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Std. 1.2(e)(i))⁹

Prior to his lengthy period of UPL, Pelcyger had no record of discipline since his admission to the bar in 1969. We acknowledge mitigating credit for a discipline-free practice for 18 years from 1969 to 1987 when he began his misconduct. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than ten years of discipline-free practice entitled to significant weight].)

B. Lack of Harm (Std. 1.2(e)(iii))

We do not find Pelcyger established lack of harm as a factor in mitigation. Standard 1.2(e)(iii) provides that “lack of harm to the client or person who is the object of the misconduct” is a mitigating circumstance. Pelcyger argued, and the trial court agreed, that his misconduct did not cause client harm. While no court decisions have yet been overturned based on Pelcyger's UPL, we consider this merely fortuitous. When legal services are rendered by someone not licensed to practice law, it is likely the opposing party may dispute any result obtained by the unauthorized representative. The outcome of the numerous water rights cases in which Pelcyger appeared for so many years have great potential to be challenged, given their highly protracted and contentious nature. Pelcyger himself testified that legal challenges, albeit unsuccessful, have already been made to overturn cases as a result of his UPL. Any unsuccessful challenge is harmful to the client and the courts because time and money are wasted in the process. (*In the*

⁸We accord great deference to the hearing judge's credibility determinations that all witnesses, including Pelcyger, were credible. (See Rules Proc. of State Bar, rule 305(a); *Franklin v. State Bar* (1986) 41 Cal.3d 700, 708.)

⁹Unless noted otherwise, all future references to standards are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Matter of Mason (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639, 642 [object of UPL can be court and not client]; *In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229, 240 [harm to public and administration of justice is inherent in UPL cases].)

C. Extreme Emotional or Physical Difficulties (Std. 1.2(e)(iv))

Pelcyger presented clear and convincing evidence that he suffered extreme emotional and/or physical difficulties during a five-year period of his UPL.¹⁰ From about 1990 to 1995, his wife was extremely ill with cancer, and his widowed mother underwent cancer surgery and died. Pelcyger's father-in-law had emergency cardiac surgery. Two of his close friends died, leaving children that Pelcyger helped support. Pelcyger's own 10-year-old son had a melanoma surgically removed and was on crutches for months. Even his legal secretary of many years developed a serious illness, underwent two brain surgeries, and died. Finally, Pelcyger had gallbladder surgery and was hospitalized with kidney stones.

Pelcyger presented expert testimony in support of his substantial emotional and physical difficulties. A forensic psychiatrist testified that he had evaluated and counseled Pelcyger, and found that the personal turmoil caused a mental block and Pelcyger essentially procrastinated about submitting the MCLE proof. As months turned into years, Pelcyger was unable to face his predicament even when his personal life became more manageable. Ultimately, the expert opined that Pelcyger was remorseful, had learned his lesson and was not likely to repeat the offense. Pelcyger testified that he "just kept procrastinating," regretted the error and was certain he would not repeat it. Based on this evidence, we accord significant mitigation credit.

¹⁰Standard 1.2(e)(iv) provides a mitigating circumstance to be "extreme emotional difficulties or physical disabilities suffered by the member at the time of the act of professional misconduct which expert testimony establishes was directly responsible for the misconduct; provided that such difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse; and further provided that the member has established through clear and convincing evidence that he or she no longer suffers from such difficulties or disabilities."

However, we do not assign any additional mitigation weight beyond the five-year period of stress from 1990 to 1995, since another 10 years elapsed after the stressful period ended before Pelcyger was forced to rectify the situation.

D. Candor and Cooperation (Std. 1.2(e)(v))

Pelcyger is also entitled to mitigation credit for candor and cooperation with the State Bar. He entered into a substantial stipulation and admitted culpability for his UPL. He was forthright in his testimony and conducted himself professionally during the disciplinary proceedings. (*See In the Matter of Respondent K* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 335, 358 [mitigation credit under std. 1.2(e)(v) for exemplary and cooperative conduct during disciplinary proceedings despite vigorous defense]).

E. Good Character (Std. 1.2(e)(vi))

We find that Pelcyger established good character, which entitles him to significant mitigation.¹¹ Twelve witnesses provided impressive character testimony, including a law school dean, a former nine-term member of Congress, attorneys, Native American tribal leaders, and a water department general manager whose interest was often adversarial. Although we note that several witnesses were either unaware of the full nature of the disciplinary charges or did not consider them serious, each established Pelcyger's reputation for high integrity and good moral character in the community.

F. Remorse (Std. 1.2(e)(vii))

Pelcyger presented compelling evidence of remorse as a mitigating factor. He sought psychological evaluation and therapy and testified repeatedly throughout the trial that he had "dug a hole" and was "fearful of the consequences." He also confessed that he was "panicked,

¹¹Standard 1.2(e)(vi) provides a mitigating circumstance to be "an extraordinary demonstration of good character of the member attested to by a wide range of references in the legal and general communities and who are aware of the full extent of the member's misconduct."

and . . . had a block, and . . . was embarrassed and ashamed.” Although he testified he felt “qualified” to represent clients during the time of his UPL, we are persuaded that he recognizes the seriousness of his misconduct. We find Pelcyger to be genuine in his remorse and believe he will conform his future conduct to professional standards.

V. AGGRAVATION

In aggravation, Pelcyger committed multiple acts of misconduct and caused harm. He engaged in UPL for 18 years in two jurisdictions (std. 1.2(b)(ii)), which harmed clients, the courts and the administration of justice (std. 1.2(b)(iv)). These are significant factors in aggravation. Pelcyger violated one of the most fundamental requirements of an attorney – to maintain a valid professional license to practice law. This obligation is inseparable from the status and duty of an attorney.

VI. DEGREE OF DISCIPLINE

The primary objectives of disciplinary proceedings are the protection of the public, the courts and the legal profession, the maintenance of high professional standards for attorneys, and the preservation of public confidence in the legal profession. (Std. 1.3; *Bach v. State Bar* (1987) 43 Cal.3d 848, 856-857.) There is no fixed formula for determining the appropriate level of discipline. (*In the Matter of Brimberry* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390, 403.) Ultimately, the degree of discipline to be recommended rests on a balanced consideration of all relevant factors. The standards, which serve as guidelines, are accorded great weight (*In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580).

Several standards apply in this case, including 2.6 (failure to obey the law by UPL – section 6068),¹² 2.3 (moral turpitude or dishonesty – section 6106) and 2.10 (unauthorized

¹²In assessing discipline, we grant no additional weight to the findings supporting the UPL violation. These facts also support the moral turpitude and dishonesty findings and discipline is adequately addressed there. (See *Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060

practice of law in another jurisdiction – rule 1-300(B) and collecting illegal fees – rule 4-200(A)). When two or more acts of misconduct are found in a single proceeding and different sanctions are prescribed by the standards, the more severe of the applicable sanctions for these violations should be imposed (std. 1.6(a)), adjusted as appropriate to reflect the balance of aggravating and mitigating circumstances. (Std. 1.6(b).) Here, standard 2.3 is the most severe, providing a range from actual suspension to disbarment, depending on the degree to which the victim is harmed or misled and on the magnitude of the misconduct and the extent to which it relates to “the member’s acts within the practice of law.”

We adopt the hearing judge’s recommended discipline, including the one-year suspension. Despite Pelcyger’s excellent reputation and catastrophic personal events, he failed to fulfill a crucial duty of honesty toward his clients and the courts for 18 years. This lengthy period of UPL is simply inexcusable.¹³ The nature and extent of misconduct in this case far outweighs even the significant mitigation. But for the mitigation evidence, a much greater discipline would be recommended. As our Supreme Court noted in *Porter v. State Bar* (1990) 52 Cal.3d 518, 528, “[t]hough we are persuaded by petitioner’s showing of mitigation, we are nonetheless constrained to observe our responsibility to preserve confidence in the legal profession and maintain the highest possible professional standards for attorneys. [Citation.]”

In making this recommendation, we look to comparable case law as the appropriate sanction to ensure discipline proportionate to the misconduct. Because the duration of Pelcyger’s UPL is unprecedented, California law does not provide significant guidance, as most cases involve shorter periods of UPL or additional unrelated misconduct. However, other

[duplicative allegations of misconduct unnecessary if one assesses identical or greater discipline].)

¹³The federal court has sharply criticized UPL misconduct by attorneys. (See generally *Alexander v. Robertson* (9th Cir. 1989) 882 F.2d 421, 425 [state disciplinary proceedings for UPL “convey the message to the public that the courts will not tolerate this type of misconduct.”].)

jurisdictions support a one-year suspension in lengthy UPL cases. (See *In the Matter of the Reinstatement of Michael L. DeBacker* (Okla. 2008) 184 P.3d 506 [one-year deferral for reinstatement in Oklahoma for unintentional non-payment of dues for 27 years]; *Hipwell v. Kentucky Bar Association* (Ky. 2008) 267 S.W.3d 682 [one-year suspension in Kentucky for non-payment of dues for 22 years where attorney did not believe bar membership required for general counsel position].)

VII. RECOMMENDATION

For the foregoing reasons, we recommend that Robert S. Pelcyger be suspended from the practice of law in the State of California for three years, that the suspension be stayed and that he be placed on probation for five years, subject to the following conditions:

1. He is suspended from the practice of law for the first year of his probation.
2. He is to comply with the provisions of the California State Bar Act and the Rules of Professional Conduct of the State Bar of California.
3. He is to maintain with the California State Bar's Membership Records Office and the California State Bar's Office of Probation his current office address and telephone number or, if no office is maintained, an address to be used for State Bar purposes (Bus. & Prof. Code, § 6002.1, subd. (a)(1)). In addition, Pelcyger is to maintain with the State Bar's Office of Probation his current home address and telephone number (Bus. & Prof. Code, § 6002.1, subd. (a)(5)).
4. He is to submit written quarterly reports to the California State Bar's Office of Probation on each January 10, April 10, July 10, and October 10. Under penalty of perjury under the laws of the State of California, Pelcyger must state whether he has complied with the State Bar Act, the Rules of Professional Conduct of the State Bar, and all conditions of this probation during the preceding calendar quarter. If the first report will cover less than 30 days, that report must be submitted on the next following 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 20 days before the last day of the probation period and no later than the last day of the probation period.
5. Subject to the assertion of any applicable privilege, Pelcyger is to fully, promptly, and truthfully answer all inquiries of the California State Bar's Office of Probation directed to him, whether orally or in writing, relating to whether he is complying or has complied with the conditions of this probation.

6. Within the first year of his probation, Pelcyger is to attend and satisfactorily complete the California State Bar's Ethics School and to provide satisfactory proof of completion of that program to the California State Bar's Office of Probation.
7. This probation will commence on the effective date of the order of the California Supreme Court imposing discipline in this matter. At the expiration of the period of this probation, if Pelcyger has complied with all the terms of probation, the three year stayed suspension will be satisfied and terminated.

VIII. PROFESSIONAL RESPONSIBILITY EXAMINATION

We recommend that Pelcyger be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year of the effective date of the Supreme Court order in this matter and to provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

IX. RULE 9.20

We further recommend that Pelcyger be ordered to comply with rule 9.20, California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein. Willful failure to comply with the provisions of rule 9.20 may result in revocation of probation, suspension, disbarment, denial of reinstatement, conviction of contempt, or criminal conviction.

X. COSTS

Finally, we recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

PURCELL, J.

We concur:

REMKE, P. J.

EPSTEIN, J.