

**FILED AUGUST 14, 2009**

**REVIEW DEPARTMENT OF THE STATE BAR COURT**

In the Matter of	)	<b>06-O-14164</b>
	)	
<b>ROBERT MICHAEL WILLIAMS</b>	)	
	)	
A Member of the State Bar.	)	<b>OPINION ON REVIEW</b>
_____	)	

In this original disciplinary proceeding, respondent, Robert Michael Williams, was found culpable of violating rule 3-700(D)(2) of the State Bar Rules of Professional Conduct<sup>1</sup> because he failed to promptly return \$395 in unearned fees during a two-month period while he was tending to his terminally ill father. Such misconduct, which the State Bar acknowledges is “de minimis” and which the hearing judge characterized as “slight and unintentional,” would not necessarily result in discipline. However, Williams has four prior instances of discipline, some of which involved similar misconduct and therefore raises concerns about whether he is a suitable candidate for further discipline.

The State Bar seeks review, urging that the hearing judge’s recommended 90-day suspension is inadequate and requesting instead that we recommend disbarment. The State Bar asks us to find additional culpability based on Williams’ alleged failure to respond to the client’s reasonable status inquiries and Williams’ alleged acceptance of compensation from a third party without the client’s informed consent. The State Bar also challenges the hearing judge’s findings in aggravation and mitigation.

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<sup>1</sup>Unless otherwise noted, all further references to “rule(s)” are to this source.

Based upon our independent review of the record (*In re Morse* (1995) 11 Cal.4th 184, 207), we adopt the hearing judge's determination that Williams violated rule 3-700(D). Additionally, we find that he is culpable of failing to respond to his client's reasonable status inquiries in violation of Business and Professions Code section 6068, subdivision (m).<sup>2</sup> We adopt most of the hearing judge's mitigation and aggravation determinations. Although we conclude that disbarment would be an excessively harsh sanction, we find that the hearing judge's recommendation of 90 days' suspension and a three-year probationary period is insufficient to protect the public, the courts and the legal profession. Instead, we recommend an actual suspension period of 18 months and a three-year probationary period, with the added condition that Williams must develop and strictly adhere to a law office management/organization plan approved by the Office of Probation of the State Bar.

## **I. FINDINGS OF FACT AND CULPABILITY**

### **A. Factual Findings**

Williams was admitted to practice law in the State of California on June 23, 1976.

Late in the afternoon on Friday, July 28, 2006, Steven Richards met with Williams because he needed an attorney to defend him in a driving-under-the-influence (DUI) case. Richards brought his mother, Jeanne Richards, for moral and financial support. He decided to hire Williams and agreed to pay him \$395 as "advanced attorney's fees." Although Mrs. Richards wrote the \$395 check from her own account, she testified that she "was advancing my son the money to pay for [the attorney's fees] because he didn't have the money." Mrs. Richards presented the check to one of Williams' office staff, who provided a receipt in the name of "Steven Richards" for a "1<sup>st</sup> DUI" case. Williams was not present when Mrs. Richards tendered

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<sup>2</sup>Unless otherwise noted, all further references to "section(s)" are to the Business and Professions Code.

the check to his employee, but he noticed for the first time that the check was written by Mrs. Richards when he deposited it in his client trust account (CTA) that evening.

Over the weekend, Richards changed his mind about hiring Williams. On Monday, July 31, 2006, he called Williams' office to inform him of his decision and request a refund of the advanced fees. Richards spoke with Williams' employee, Larry Stewart, who had been employed by Williams for at least 20 years and was legally blind. Stewart's duties included answering the phones and taking messages. He told Williams about Richards' call when Williams returned to his office from court later that day. Williams instructed Stewart to call Richards and advise him that Williams had deposited the check into his CTA, and he would issue a refund to Richards once the check cleared in about ten days. Stewart followed Williams' instructions and relayed the information to Richards by telephone.

To ensure that he followed up on refunding the fees, Williams instructed Stewart to give Richards' file to Williams' secretary so that it could be filed with the other active "day files" and reviewed in ten days. Unfortunately, the secretary misfiled it.

Beginning on August 9, 2006, Mrs. Richards called Williams' office three times to inquire about the \$395 refund. She spoke with Stewart the first two times, and he advised her that Williams was out of the office but would prepare a check for mailing upon his return. The third time Mrs. Richards called, Stewart informed her that she should expect a check by August 21, 2006, but the check did not arrive on that date. Mrs. Richards never asked to speak with Williams, and Stewart neglected to tell him about her telephone calls. The office procedure for recording incoming telephone messages was a list of such calls maintained for two months on a yellow legal pad. There was no system to keep duplicate messages, and a memo about client telephone messages was not kept in each client's file. This office practice left Williams without a permanent record of a particular phone call or of the information contained in the message.

During this time period, Williams was taking care of his elderly father who was terminally ill with prostate cancer. Stewart testified that Williams “was very troubled and worried about his father, and that was very stressful for [Williams],” and for this reason, Stewart did not want to bother him about the calls from Richards.

Richards and his mother attempted to call Williams’ office several more times during the month of August, but the phone rang endlessly without anyone answering and they were unable to leave a message. Although Williams remained in the same office, he had changed his telephone service provider and couldn’t keep the same phone number. He did not have his phone calls forwarded to the new phone number, and no information about the new number was given when someone called the old number. Williams notified only his current clients of his new phone number, and therefore Richards did not receive that information.

Unable to contact Williams by telephone, Richards filed a complaint with the State Bar on or about August 28, 2006. At the suggestion of the State Bar investigator, Richards wrote a letter to Williams, dated September 26, 2006, seeking the return of his fees. The State Bar wrote a separate letter to the same effect the following day. Upon receipt of these letters, Williams wrote Richards a letter of apology, dated October 9, 2006, and he included the \$395 in unearned fees and an additional \$95 in gift cards.

The State Bar filed a Notice of Disciplinary Charges (NDC) alleging three counts of misconduct. After a two-day trial, the hearing judge found Williams culpable of failure to timely return his unearned fee, and he dismissed with prejudice the charges of failing to respond to a client’s reasonable status inquiries and accepting compensation from a third party on behalf of a client without the client’s informed consent.

In mitigation, the hearing judge found that Williams suffered from emotional difficulties while taking care of his terminally ill father during the time of his misconduct, he was candid and

cooperative with the State Bar during the disciplinary proceedings, he demonstrated good character as well as recognition of wrongdoing and remorse, and he took steps to improve his office procedures. The hearing judge found Williams' four prior records of discipline were aggravating factors, and he recommended that Williams be suspended from the practice of law for three years, that execution of that suspension be stayed, and that Williams be placed on probation for three years subject to various conditions, including suspension from the practice of law for the first 90 days of his probation.

**B. Culpability Discussion**

**Count 1: Business and Professions Code Section 6068, Subdivision (m) – Failure to Communicate**

We find clear and convincing evidence that Williams violated section 6068, subdivision (m)<sup>3</sup> by failing to respond to Richards' inquiries about the refund for unearned fees. Although Richards' mother was not the client, when she made the three phone calls in August 2006, she did so on behalf of Richards to inquire about the \$395 refund. While Williams had no obligation to discuss the refund with Richards' mother, he did have a fiduciary duty to contact Richards once inquiries were made on Richards' behalf. Moreover, Richards also called on several occasions to request a refund, although he was unsuccessful in completing these calls due to the change in Williams' telephone number. The refund requests constituted reasonable status inquiries within the scope of section 6068, subdivision (m) (*In the Matter of Lais* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907, 921-922), and Williams clearly "breached his duty under section 6068(m) by not having in place a system which would bring to his attention such repeated calls to his office so that he could return them." (*In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47, 57.)

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<sup>3</sup>Section 6068, subdivision (m) requires that an attorney "respond promptly to reasonable status inquiries of clients. . . ."

## **Count 2: Rule 3-700(D)(2) - Failure to Promptly Return Unearned Fees**

Williams asserts he is not culpable of violating rule 3-700(D)(2)<sup>4</sup> for failing to promptly return the \$395 in unearned fees because his misconduct, if any, was merely negligent. The Supreme Court has stated: “Attorneys cannot be held responsible for every detail of office operations. [Citation.]” (*Palomo v. State Bar* (1984) 36 Cal.3d 785, 795), and past cases demonstrate that a single instance of negligence resulting from staff error may not amount to a disciplinable offense. (See *In the Matter of Fonte* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 752, 757 [no misconduct for failure to answer interrogatories due to calendaring error]; *In the Matter of Ward, supra*, 2 Cal State Bar Ct. Rptr. at p. 57 [no misconduct for single miscalendaring of five-year statute].) Thus, Williams’ act of directing Stewart to give the Richards’ file to the office secretary, who in turn misfiled it, might not, in and of itself, amount to a disciplinable act of negligence.

However, we find clear and convincing evidence of a rule 3-700(D)(2) violation because Williams’ failure to promptly return Richards’ fee is attributable not to a single negligent act, but rather to various lapses in Williams’ office procedures. “[W]here fiduciary violations occur as the result of serious and inexcusable lapses in office procedure, they may be deemed ‘wilful’ for disciplinary purposes, even if there was no deliberate wrongdoing. [Citations.]” (*Palomo v. State Bar, supra*, 36 Cal.3d at p. 795.) Williams’ calendaring system provided for scheduling upcoming appointments and court appearances but it did not take into account important deadlines, such as due dates for written motions. His office procedure of simply placing active files in hanging file folders according to the number of days needed to take action also appears to be a factor leading to the delay in this case. Williams had no computerized or other backup calendaring system that could have caught the misfiling error. “The fact that [Richards’] file was

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<sup>4</sup>Rule 3-700(D)(2) provides in relevant part that upon termination, an attorney shall “Promptly refund any part of a fee paid in advance that has not been earned.”

misplaced, or that there was misconduct by an employee, cannot excuse the failure to maintain an information system that permits a lawyer to periodically check the status of his or her cases.”

(*In the Matter of Sullivan* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608, 612.)

### **Count 3: Rule 3-310(F) - Accepting Compensation from a Third Party**

We find there is not clear and convincing evidence that Williams violated rule 3-310(F)<sup>5</sup> by depositing into his trust account the \$395 check written by Mrs. Richards. First, the parties stipulated that “At the time Richards employed Williams, *he provided Williams with \$395 in advance attorney’s fees.*” (Italics added.) It is well settled that “[a] stipulation ‘is conclusive upon the parties, and the truth of the facts contained therein cannot be contradicted’ unless permission is given to withdraw from the stipulation. [Citations.]” (*Spindell v. State Bar* (1975) 13 Cal.3d 253, 260; see also *In the Matter of Rodriguez* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884, 886 [unless parties’ stipulation has been set aside, “it remains binding on the parties, and the facts recited in the stipulation are deemed established for purposes of this proceeding”].) The State Bar is bound by the stipulation and is precluded from now asserting that Mrs. Richards paid the advanced fees. Moreover, Mrs. Richards intended the \$395 to be an advance to her son, and therefore it was Richards, not his mother, who was ultimately liable for the payment of the attorney fees to Williams.

## **II. DISCIPLINE**

We determine the appropriate discipline in light of all relevant circumstances, including mitigating and aggravating circumstances. (*Gary v. State Bar* (1988) 44 Cal.3d 820, 828.)

Williams must establish mitigation by clear and convincing evidence (Rules Proc. of State Bar,

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<sup>5</sup>Rule 3-310(F) provides in relevant part that an attorney “shall not accept compensation for representing a client from one other than the client. . . .”

tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e),<sup>6</sup> while the State Bar has the same burden of proof for establishing aggravating circumstances. (Std. 1.2(b).)

**A. Mitigation**

The hearing judge found that Williams is entitled to mitigation credit because he was caring for his terminally ill father at the time of his misconduct. The State Bar does not dispute this finding, and upon our independent review, we find this to be a significant mitigating factor.

The State Bar challenges the hearing judge's mitigation finding of good character under standard 1.2(e)(vi). Five character witnesses, two of whom were Williams' employees, testified on his behalf. We agree that this does not constitute an extraordinary demonstration of good character attested to by a wide range of references in the legal and general communities. (*In the Matter of Hagen* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153, 171).

However, Williams presented uncontroverted testimony about his volunteer work as well as his monthly contributions to a children's home and his donations to Thanksgiving and Christmas dinners provided by a church. In addition, Williams purchased and delivered books to military veterans and he bought a vehicle for a nursing student in need. We find that Williams' charitable endeavors and financial generosity in his community are entitled to mitigation credit. (*In the Matter of Bouyer* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888, 891 [attorney given mitigation credit for pro bono work]; *In the Matter of Laden* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678, 685 [attorney given mitigation credit for volunteer work].)

We also give nominal weight in mitigation to Williams' candor and cooperation under standard 1.2(e)(v). Even though the facts were easily provable, Williams' factual stipulation and admissibility of exhibits were relevant and assisted the State Bar in establishing culpability and

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<sup>6</sup>Unless otherwise noted, all further references to "standards" are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

aggravation. (*In the Matter of Bouyer, supra*, 3 Cal. State Bar Ct. Rptr. at p. 891; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.)

We find that Williams is not entitled to any mitigation credit for restructuring his office procedures under standard 1.2(e)(vii). According to Williams, in response to the Richards problem, he removed Stewart from the responsibility for answering phones and taking messages. However, when the State Bar subsequently called Williams on two occasions, Stewart still answered the phone. There is no evidence that Williams made any other needed changes to his office procedures despite their inadequacies.

We find that Williams' letter of apology, refund of the \$395, and \$95 in gift cards demonstrate recognition of wrongdoing and are mitigating factors. Normally, an attorney's restitution payment is not entitled to mitigation if it is made under pressure of the State Bar's investigation and disciplinary proceedings. (*In the Matter of Petilla* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231, 249; *In the Matter of Dyson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280, 287). In this case, it was only after he received Richards' letter seeking a refund that Williams was alerted to the problem and took steps to resolve it. At the same time, the State Bar also sent Williams a letter about Richards' complaint. If there is a reasonable doubt that it was Richards' letter rather than the State Bar's letter that prompted Williams' action, we resolve that doubt in favor of Williams. (*In the Matter of Respondent B* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 424, 437 [if equally reasonable inferences may be drawn, inference to be accepted is one leading to conclusion of innocence].)

## **B. Aggravation**

Williams was previously disciplined for misconduct in four instances. This is a serious aggravating factor. (Std. 1.2(b)(i).)

In his first disciplinary matter, the Supreme Court placed Williams on probation for two years by its order filed on October 4, 1995. His misconduct occurred from 1993 through October 1994, involved seven client matters and demonstrated Williams' difficulty with completing work competently and in a timely manner. For example, he failed to promptly notify a client that a default had been entered against him, did not transfer an adoption case to the county of the client's new residence for nine months, delayed filing a bankruptcy petition for six-months, failed to take action on behalf of his client in a child custody case; and delayed for five-months the preparation of an order for court approval. Williams stipulated that this misconduct was attributable to "office-management" problems, which included the misfiling and/or complete loss of files.

In Williams' second disciplinary matter, the Supreme Court ordered a 30-day suspension, effective March 18, 2005. This second case arose in 1998 and involved two client matters where, for more than a year, Williams failed to file a qualified domestic relations order, to promptly notify a client of funds received pursuant to a judgment and to respond to a letter from a client. The hearing judge noted that the previous steps Williams took in his law practice to prevent such misconduct from recurring did not achieve the desired result.

In the third disciplinary matter, the Supreme Court filed an order on May 12, 2005, suspending Williams for 30 days because in 2001, he failed to inform his clients about a deadline to make a payment to a plaintiff. As a result, the clients suffered a judgment against them. Additionally, Williams did not respond to his clients' status inquiries. This misconduct was contemporaneous with the misconduct in the second disciplinary matter.

Finally, Williams' fourth disciplinary matter involved the unauthorized practice of law (UPL). He stipulated to appearing in the San Joaquin Superior Court on four separate dates in 2005, representing clients in approximately 26 matters, while he was suspended from the

practice of law. On September 13, 2006, the Supreme Court suspended Williams for an additional 30-day period.

### **C. Level of Discipline**

The primary purpose of these disciplinary proceedings is not to punish the attorney but to protect the public, the courts, and the legal profession. (Std. 1.3; *Bach v. State Bar* (1987) 43 Cal.3d 848, 856-857.) In determining the appropriate degree of discipline, we consider the standards, which serve as guidelines, as well as the facts of the case and guiding case law. (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.)

Since Williams has four prior records of discipline, we focus on standard 1.7(b), which provides for disbarment of an attorney who has two prior records of discipline “unless the most compelling mitigating circumstances clearly predominate.” Standard 1.7(b) is not applied in a rote fashion; rather, we “examine the nature and chronology of [Williams’] record of discipline. [Citation.] Merely declaring that an attorney has [several prior] impositions of discipline, without more analysis, may not adequately justify disbarment in every case.” (*In the Matter of Miller* (Review. Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136.) Thus, we consider whether there is a “repeated finding of culpability of the same offense, or continuing misconduct of increasing severity.” (*In the Matter of Trousil* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229, 241.)

Generally, attorneys have been disbarred when a pattern of serious misconduct or a “disturbing repetitive theme” is shown. (*In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 841.) We acknowledge that Williams’ disciplinary history and current misconduct reflect an ongoing problem with his ability to organize and manage his law office practice. However, we also recognize that while his earlier misconduct was serious, his current offenses are relatively minor and did not result in significant harm to his client. “Only the most

serious instances of repeated misconduct over a prolonged period of time have been considered as evidence of a ‘pattern of misconduct.’ [Citations.]” (*In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944, 959.) Thus, disbarment has been imposed where there have been serious ethical violations. (See e.g., *Barnum v. State Bar* (1990) 52 Cal.3d 104 [attorney with three prior disciplines disbarred for collecting unconscionable fee, willfully disobeying court orders and refusing to participate in disciplinary investigation]; *Gary v. State Bar, supra*, 44 Cal.3d 820 [attorney with four prior disciplines disbarred for willfully failing to make court appearances and to file timely claim with City and County of San Francisco in client’s personal injury action]; *Morales v. State Bar* (1988) 44 Cal.3d 1037 [attorney with two prior disciplines disbarred for unauthorized withdrawal of \$23,343.10 from client’s pension account and misappropriation of \$3,000 check.]

In contrast, Williams’ failure to return the \$395 for two months and to respond to his client’s requests for the refund would likely not warrant significant discipline in the absence of his prior record of discipline. (See *In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703 [attorney with one prior record of discipline received public reproof for failing to promptly return unearned fees and to take steps to avoid foreseeable prejudice to clients upon clients’ discharge of attorney]; *In the Matter of Kennon* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 267 [30-day actual suspension for attorney with no prior disciplinary record who failed to communicate with clients and to return unearned fees and who withdrew from employment without taking reasonable steps to avoid foreseeable prejudice to client]; *Matthew v. State Bar* (1989) 49 Cal.3d 784 [60-day actual suspension for attorney who abandoned two clients without completing their legal work, failed to return unearned fees, and failed to complete work for third client until more than four years after he was hired].)

Thus, even in those cases where standard 1.7(b) has been considered, disbarment has been rejected if the misconduct was not serious. (See, e.g., *In the Matter of Trousil*, *supra*, 1 Cal. State Bar Ct. Rptr. 229 [attorney with three prior disciplines received 30-day actual suspension for practicing while license was suspended for nonpayment of dues, mitigated by successful treatment for bipolar mood disorder and no misconduct for six years after UPL]; *In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523 [attorney with four prior disciplines received 11-month actual suspension for six probation violations including failing to cooperate with probation monitor]; *Arm v. State Bar* (1990) 50 Cal.3d 763 [attorney with three prior disciplines received 18-month actual suspension for misleading judge about impending suspension, commingling funds and holding himself out as entitled to practice].)

In his earlier discipline matters, Williams received at most a 30-day suspension. In view of the modest level of misconduct here and the significant mitigating factors, a disbarment recommendation would be unjust. However, the 90 days' suspension recommended by the hearing judge is inadequate when we consider Williams' disciplinary history. Therefore, we recommend a stayed suspension of three years and a three-year probationary period during which Williams shall be suspended for the first 18 months. This 18-month suspension should provide him with ample opportunity to reflect on his shortcomings and motivate him to learn how to effectively alleviate them. Most importantly – and central to our recommendation – is the additional requirement that Williams develop a law office management/organization plan acceptable to the Office of Probation. The development of and strict adherence to a plan for properly managing his law office should address the root cause of Williams' misconduct and should adequately protect the public, the courts and the legal profession.

### III. RECOMMENDATION

We therefore recommend that Robert Michael Williams be suspended for three years, that execution of that suspension be stayed, and that he be placed on probation for three years subject to the following conditions:

1. He must be suspended from the practice of law for the first 18 months of probation;
2. He must comply with the provisions of the State Bar Act and the Rules of Professional Conduct;
3. He must maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation in Los Angeles, 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).) Robert Michael Williams must also maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation in Los Angeles, his current home address and telephone number. (Bus. & Prof. Code, § 6002.1, subd. (a)(5).) Robert Michael Williams' home address and telephone number will *not* be made available to the general public. (Bus. & Prof. Code, § 6002.1, subd. (d).) Robert Michael Williams must notify the Membership Records Office and the Office of Probation of any change in any of this information no later than 10 days after the change.
4. He must report, in writing, to the State Bar's Office of Probation in Los Angeles no later than January 10, April 10, July 10 and October 10 of each year or part thereof in which respondent is on probation (reporting dates). However, if Robert Michael Williams' probation begins less than 30 days before a reporting date, he may submit the first report no later than the second reporting date after the beginning of his probation. In each report, Robert Michael Williams must state that it covers the preceding calendar quarter or applicable portion thereof and must certify by affidavit or under penalty of perjury under the laws of the State of California as follows:
  - (1) in the first report, whether Robert Michael Williams has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation since the beginning of probation; and
  - (2) in each subsequent report, whether Robert Michael Williams has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during that period.

During the last 20 days of this probation, Robert Michael Williams must submit a final report covering any period of probation remaining after and not covered by the last quarterly report required under this probation condition. In this final report, Robert Michael Williams must certify to the matters set forth in

subparagraph (2) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California

5. Subject to the assertion of applicable privileges, he must answer fully, promptly and truthfully, any inquiries of the State Bar's Office of Probation that are directed to him personally or in writing, relating to whether he is complying or has complied with these probation conditions;
6. Within one year after the effective date of the Supreme Court order in this matter, Robert Michael Williams must attend and satisfactorily complete the State Bar's Ethics School and provide satisfactory proof of such completion to the State Bar's Office of Probation in Los Angeles. This condition of probation is separate and apart from his California Minimum Continuing Legal Education (MCLE) requirements; accordingly, Robert Michael Williams is ordered not to claim any MCLE credit for attending and completing this course.
7. Within one year of the effective date of the discipline herein, he shall develop a law office management/organization plan which must be approved by the Office of Probation. This plan must include procedures to send periodic reports to clients, the documentation of telephone messages received and sent, file maintenance, the meeting of deadlines, the establishment of procedures to withdraw as attorney, whether of record or not, when clients cannot be contacted or located, and for the training and supervision of support personnel.
8. The period of probation will commence on the effective date of the order of the Supreme Court imposing discipline in this proceeding. At the expiration of the period, if he has complied with all of the conditions of probation, the three-year period of stayed suspension will be satisfied and terminated.

We further recommend that Robert Michael Williams be ordered to comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule, within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order herein. Failure to do so may result in disbarment or suspension.

We further recommend that Robert Michael Williams be ordered to also take and pass the Multistate Professional Responsibility Examination during the period of suspension in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

We further 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 section 6140.7 and as a money judgment.

EPSTEIN, J.

We concur:

REMKE, P. J.

PURCELL, J.