

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of) Case Nos. 07-O-11313-PEM;
) (07-O-13904; 09-O-14150)
CHARLES VICTOR STEBLEY,)
) **DECISION**
Member No. 158219,)
)
A Member of the State Bar.)

I. Introduction

In this default matter, respondent Charles Victor Stebley (respondent) is charged with ten counts of professional misconduct. The court finds, by clear and convincing evidence, that respondent is culpable of nine of the charged acts of misconduct.

Based on the evidence before the court and the factors in aggravation and mitigation, the court recommends, among other things, that respondent be suspended from the practice of law for a minimum of one year.

II. Significant Procedural History

The State Bar filed a Notice of Disciplinary Charges (NDC) against respondent, in the above-listed case numbers, on August 31, 2010. That same day, a copy of the NDC was

properly served on respondent in the manner set forth in rule 60 of the Former Rules of Procedure of the State Bar of California (Former Rules of Procedure).¹

On October 8, 2010, respondent filed a response to the NDC. And on October 20, 2010, respondent filed a supplemental response to the NDC.

Respondent sporadically appeared for subsequent status conferences, and ultimately failed to appear at trial. Upon his failure to appear at trial, the court issued an order of entry of default and order of involuntary inactive enrollment on January 19, 2011. This matter was ultimately submitted on March 18, 2011.

III. Findings of Fact and Conclusions of Law

All factual allegations of the NDC are deemed admitted upon entry of respondent's default unless otherwise ordered by the court based on contrary evidence. (Former Rules Procedure, rules 200 et seq.)

Respondent was admitted to the practice of law in California on June 8, 1992, and has been a member of the State Bar of California at all times since that date.

A. Case No. 07-O-11313 – The Gutierrez-Vasquez Matter

Facts

Commencing in or about 1999 and continuing thereafter, Jose Gutierrez-Vasquez (Gutierrez-Vasquez), was represented by respondent in Gutierrez-Vasquez' immigration status matters.

¹ Effective January 1, 2011, the Rules of Procedure of the State Bar of California were amended. Based on the court's determination that injustice would otherwise result, the court applied the Former Rules of Procedure in this proceeding.

On or about May 18, 2004, Gutierrez-Vasquez received an administratively final order of removal from the Board of Immigration Appeals (BIA). An appeal of the final order was due by June 17, 2004. Respondent timely received notice of the May 18, 2004 BIA order.

On or about June 12, 2004, Gutierrez-Vasquez hired respondent to file a petition for review of the BIA decision at the 9th Circuit Court of Appeals. The petition for review was due on June 17, 2004.

On or about June 18, 2004, respondent filed a petition for review of the BIA decision on behalf of Gutierrez-Vasquez, Case No. A74-223-139. At no time prior to on or about June 18, 2004, did respondent inform Gutierrez-Vasquez that the Petition for Review needed to be filed by June 17, 2004.

Subsequently the court set the due date for respondent's opening brief for December 20, 2004. Soon thereafter, respondent received notice of the briefing schedule. Respondent did not file the opening brief for Gutierrez-Vasquez in Case No. A74-223-139 by December 20, 2004, or at any time thereafter.

On or about April 19, 2005, the court issued an order in Case No. A74-223-139, dismissing the case, for failure to file the opening brief. The court further ordered respondent to notify Gutierrez-Vasquez of the dismissal within seven days of the date of the order. Soon thereafter, respondent received this order. Respondent did not notify Gutierrez-Vasquez of the dismissal of Case No. A74-223-139 by April 26, 2005.

In or around May 2005, Gutierrez-Vasquez received a deportation letter. Prior to receipt of the deportation letter, respondent had failed to notify Gutierrez-Vasquez that: (1) he failed to timely file the petition for review; (2) he failed to file the opening brief in the petition for review; and (3) the petition for review had been dismissed for failure to file the opening brief.

On or about May 27, 2005, respondent filed an emergency motion to recall mandate. In the motion respondent stated: "Petitioner's counsel failed to file an opening brief and the matter was dismissed with a corresponding issuance of a mandate. Petitioner is now faced with imminent removal from the United States."

On or about June 21, 2005, the court issued an order requiring respondent to within 21 days: (1) file a notice of withdrawal from Case No. A74-223-139; (2) serve the June 21, 2005 order on Gutierrez-Vasquez; (3) inform Gutierrez-Vasquez that he must obtain new counsel; (4) turn over the file to Gutierrez-Vasquez; and (5) provide the court with proof of compliance with the order and Gutierrez-Vasquez' current mailing address and telephone number. Respondent received the June 21, 2005 order shortly after it was served, but failed to comply with the order within the time prescribed.

On or about November 21, 2005, respondent acknowledged that he had not complied with the court's June 21, 2005 order. On or about December 12, 2005, respondent mailed Gutierrez-Vasquez the court's order dated June 21, 2005. On or about December 22, 2005, respondent provided the court the address and telephone number for Jose Gutierrez-Vasquez, which he was ordered to provide to the court not later than July 12, 2005.

Gutierrez-Vasquez paid respondent \$3,200 in advanced fees to represent him in the petition for review in the Ninth Circuit. Respondent's services to Gutierrez-Vasquez in the petition for review, were so deficient so as to be worthless. Respondent did not earn any part of the \$3,200 paid by Gutierrez-Vasquez as advanced fees. At no time has respondent refunded any part of the \$3,200 in fees received from Gutierrez-Vasquez for the petition for review.

Conclusions of Law

1. Count One (A) – (Rules Prof. Conduct, rule 3-110(A)² [Failure to Perform Competently])

Rule 3-110(A) provides that a member must not intentionally, recklessly, or repeatedly fail to perform legal services with competence. By failing to timely file the petition for review of the May 18, 2004 BIA final order of removal, and by failing to file an opening brief, respondent recklessly and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

2. Count One (B) – (Bus. & Prof. Code, § 6068, subd. (m)³ [Failure to Communicate])

Section 6068, subdivision (m) provides that it is the duty of an attorney to respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services. By failing to inform Gutierrez-Vasquez that he failed to timely file the petition for review, that he failed to file the opening brief, that the petition for review had been dismissed for failure to file the opening brief, that the court had ordered respondent to withdraw from the matter, and that Gutierrez-Vasquez needed to obtain new counsel, respondent failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068, subdivision (m).

3. Count One (C) – (§ 6103 [Failure to Obey a Court Order])

Section 6103 provides that “[a] wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he

² Unless otherwise indicated, all further references to rules refer to the State Bar Rules of Professional Conduct.

³ Unless otherwise indicated, all further statutory references are to the Business and Professions Code.

ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension.” By failing to comply with the court’s order of June 21, 2005 until December 22, 2005, respondent willfully disobeyed a court order requiring him to do acts in the course of his profession which he ought in good faith to do, in willful violation of section 6103.

4. Count One (D) – (Rule 3-700(D)(2) [Failure to Refund Unearned Fees])

Rule 3-700(D)(2) requires an attorney whose employment has been terminated to promptly refund any part of a fee paid in advance that has not been earned. By failing to refund the \$3,200 in unearned fees to Gutierrez-Vasquez, respondent failed to refund unearned fees, in willful violation of rule 3-700(D)(2).

B. Case No. 07-O-13904 - The Zaragoza-Martinez Matter

Facts

Beginning in or about October 1997, and continuing thereafter, respondent was hired by Antonia Zaragoza-Martinez (Zaragoza-Martinez) to represent her in immigration matters. Respondent represented Zaragoza-Martinez initially before the Immigration Court, and thereafter before the Board of Immigration Appeals and the U.S. Court of Appeals for the Ninth Circuit. During respondent’s representation of Zaragoza-Martinez, he: (1) failed to call witnesses to substantiate the extreme hardship in the cancellation of removal proceeding; (2) failed to provide documentary evidence in support of the hardship element in the cancellation of removal proceeding; (3) failed to present supporting affidavits to the extreme hardship in support of the cancellation of removal proceeding; (4) filed a three-page opening brief to the Board of Immigration Appeals, which contained no citations to the record and no effort to argue the facts in the record as they applied to the relevant case law; (5) never sought to have the Board of

Immigration Appeals reconsider or reopen the denial of the cancellation of removal; and (6) filed a five-page opening brief to the Ninth Circuit Court of Appeal.

On or about October 25, 2005, the Ninth Circuit issued an order wherein it commenced disciplinary proceedings against respondent. On or about November 22, 2005, respondent resigned from the Ninth Circuit. On or about February 24, 2006, the Ninth Circuit accepted respondent's resignation.

On or about February 14, 2006, the Ninth Circuit issued an order requiring respondent to within 28-days, do all of the following: (1) file notices of withdrawal in all pending cases in which he was counsel of record; (2) serve the order on his clients in all pending cases; and (3) turn over all client files and materials to the clients. Soon thereafter respondent received the February 14, 2006 order.

Respondent failed to comply with the court's February 14, 2006 order within 28 days, or at anytime thereafter. On or about March 17, 2006, respondent notified Zaragoza-Martinez by letter that he could no longer represent her in the appeal. Respondent did not inform Zaragoza-Martinez of the reason he could no longer represent her. Respondent also did not provide Zaragoza-Martinez with a copy of the order or the client file.

On or about March 21, 2006, respondent filed his notice of withdrawal as counsel of record in Zaragoza-Martinez' appeal.

At no time did respondent inform Zaragoza-Martinez that he was the subject of disciplinary proceedings before the Ninth Circuit. And at no time did respondent inform Zaragoza-Martinez that he had resigned from the Ninth Circuit after the Ninth Circuit had commenced disciplinary proceedings against him.

Conclusions of Law

1. Count Two (A) - Rule 3-110(A) [Failure to Perform Competently]

The State Bar alleged that by failing to call witnesses to substantiate the extreme hardship, present documentary evidence to substantiate the extreme hardship, present affidavits to substantiate the extreme hardship, cite the record and argue the facts and case law to the Board of Immigration Appeals, file a motion to reopen or a motion to reconsider before the Board of Immigration Appeals, and file more than the five-page brief to the Ninth Circuit, respondent intentionally, recklessly and repeatedly failed to perform legal services with competence. The court disagrees. The evidence currently before the court does not establish, by clear and convincing evidence, a violation of rule 3-110(A). While it is alleged that respondent failed to substantiate the extreme hardship his client would suffer, it remains unclear exactly what type of hardship the client would suffer and what, if any, witnesses or documentary evidence was excluded by respondent. Furthermore, the length of respondent's Ninth Circuit filings does not inherently demonstrate an intentional, reckless, or repeated failure to perform legal services with competence. Consequently, Count Two (A) is dismissed with prejudice.

2. Count Two (B) – (§ 6103 [Failure to Obey a Court Order])

By failing to serve the Ninth Circuit Court's February 14, 2006 order on Zaragoza-Martinez, and by failing to provide the Zaragoza-Martinez with the file, respondent willfully disobeyed a court order requiring him to do acts in the course of his profession which he ought in good faith to do, in willful violation of section 6103.

3. Count Two (C) – (§ 6068, subd. (m) [Failure to Communicate])

By failing to inform Zaragoza-Martinez of the pending disciplinary proceedings and by failing to notify Zaragoza-Martinez of the reason he withdrew from representation, respondent

failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068, subdivision (m).

C. Case No. 09-O-14150 – The Garcia Matter

Facts

In or around 1999, Jaime Garcia was removed from the United States and returned to Honduras. Prior to his removal, Jaime Garcia did not make a claim for asylum. Prior to his removal, Jaime Garcia had been detained and appeared before the Immigration Court, which ordered his removal. Jaime Garcia waived his right to appeal the order of deportation. After his removal, Jaime Garcia re-entered the United States illegally. On or about January 9, 2008, Jaime Garcia was once again detained by the immigration authorities.

On or about January 16, 2008, Jaime Garcia and his wife Jennifer Garcia (the Garcias), hired respondent to represent Jaime Garcia in his immigration matter. Respondent did not enter into a written contract with Jaime Garcia or Jennifer Garcia. In or around January 2008, respondent received a total of \$4,500 in advanced fees from Jennifer Garcia on behalf of Jaime Garcia.

Upon being hired, respondent advised the Garcias that Jaime Garcia needed to file a motion to reopen the original 1999 removal proceeding.

On or about January 22, 2008, respondent filed, in the Immigration Court, a motion for stay of removal and a motion to reopen for Jaime Garcia. The motion to reopen and motion for stay of removal were devoid of meritorious legal argument. On or about January 23, 2008, the Immigration Court judge denied the stay of removal. On or about April 7, 2008, the immigration judge denied the motion to reopen.

In or around January 2008 and thereafter, respondent was ineligible to practice before the Ninth Circuit Court of Appeal. Respondent either knew, or should have known that the proper avenue to reopen Jaime Garcia's immigration matter was to file the appropriate motion in Federal Court.

At some point in 2008; respondent advised the Garcias that they should complete forms I-601 and I-212 and take them to the consulate. Respondent provided these forms and represented to the Garcias that these forms could be submitted to the consulate. The forms were completed by the Garcias, whereupon they took them to the consulate. The consulate summarily rejected the forms stating that Jaime Garcia was ineligible for relief afforded in the I-601 and I-212 forms. Respondent either knew or should have known that Jaime Garcia would not be successful in applying for relief using these forms.

Prior to on or about May 12, 2009, the Garcias terminated respondent's services. On or about May 12, 2009, Jennifer Garcia, wrote a letter to respondent. In her letter Jennifer Garcia asked for copies of all applications and correspondence that respondent had submitted on behalf of Jaime Garcia. Soon thereafter, respondent received this letter, but did not provide the requested material.

On or about June 9, 2009, Jennifer Garcia wrote a letter to respondent. In her letter Jennifer Garcia asked for copies of all applications and correspondence that respondent had submitted on behalf of Jaime Garcia. Respondent refused delivery of this letter.

On or about October 4, 2009, Jennifer Garcia wrote a letter to respondent. In her letter Jennifer Garcia asked for copies of all applications and correspondence that respondent had submitted on behalf of Jaime Garcia, as well as a full refund of all advanced fees. Soon

thereafter, respondent received this letter but did not provide the requested material, or any refund of advanced fees.

On or about May 12, 2009, June 9, 2009, and October 4, 2009, Jennifer Garcia wrote letters to respondent requesting information regarding her husband, Jaime Garcia's immigration matter. Jennifer Garcia specifically wanted to know what actions respondent had taken on behalf of her husband Jaime Garcia. The letters were delivered as addressed. Respondent received the May 12, 2009 and October 4, 2009, letters, but did not respond. Respondent failed to claim the June 9, 2009, letter. Between on or about May 12, 2009 and June 9, 2009, Jennifer Garcia e-mailed respondent requesting information regarding her husband, Jaime Garcia's immigration matter. Respondent received the e-mail, but did not respond.

Respondent's services to Jaime Garcia were so deficient so as to be worthless. Respondent did not earn any part of the \$4,500 paid as advanced fees. As of on or about June 10, 2010, respondent had failed to refund any portion of the unearned fees, as requested, to Jennifer Garcia or Jaime Garcia. As of that same date, respondent had failed to provide the requested documents to Jennifer Garcia or Jaime Garcia.⁴

Conclusions of Law

1. Count Three (A) - Rule 3-110(A) [Failure to Perform Competently]

By filing a motion to reopen and motion to stay removal in the Immigration Court without any substantive argument in favor of the motions, by advising the Garcias to complete forms I-601 and I-212, and by failing to have anything filed on behalf of Jaime Garcia in Federal court, respondent intentionally, recklessly and repeatedly failed to perform legal services with competence, in willful violation of rule 3-110(A).

⁴ There is no indication in the record that respondent has since provided the Garcias with a refund or their requested documents.

2. Count Three (B) - Rule 3-700(A)(2) [Improper Withdrawal]

Rule 3-700(A)(2) provides that an attorney may not withdraw from employment until taking reasonable steps to avoid foreseeable prejudice to the client's rights. By failing to refund the unearned fees and by failing to provide the requested documents, respondent failed to take reasonable steps to avoid reasonably foreseeable prejudice to his client, in willful violation of rule 3-700(A)(2).

3. Count Three (C) – (§ 6068, subd. (m) [Failure to Communicate])

By failing to respond to Jennifer Garcia's letters and e-mail, and by failing to provide information to Jennifer Garcia as to the steps he had taken on behalf of Jaime Garcia, respondent failed to promptly respond to reasonable status inquiries and failed to keep a client reasonably informed of significant developments in a matter in which respondent had agreed to provide legal services, in willful violation of section 6068, subdivision (m).

IV. Mitigation and Aggravation

A. Mitigation

No mitigating factors were submitted into evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)⁵ Respondent, however, has no prior record of discipline in 12 years of practice prior to engaging in his first act of misconduct in the current proceeding.⁶ Practicing law for 12 years before committing misconduct is entitled to some weight in mitigation.

⁵ All further references to standard(s) are to this source.

⁶ Pursuant to Evidence Code section 452, subdivision (h), the court takes judicial notice of respondent's membership records.

B. Aggravation

1. Multiple Acts of Misconduct

Respondent was found culpable of nine acts of misconduct involving three separate clients. Multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).)

2. Significant Harm

Respondent's misconduct also resulted in significant harmed to his clients. (Std. 1.2(b)(iv).) Respondent's failure to refund unearned fees has resulted in significant financial harm to Jose Gutierrez-Vasquez and Jennifer Garcia.

3. Failure to Cooperate

Respondent's failure to participate in the present proceedings prior to the entry of his default constitutes an additional factor in aggravation. (Std. 1.2(b)(vi).)

V. 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 must be the most severe of the applicable sanctions. (Std. 1.6(a).)

Standards 2.4(b), 2.6, and 2.10 apply in this matter. The most severe sanction is found at standard 2.6 which recommends disbarment or suspension depending on the gravity of the

offense or the harm, if any, to the victim, with due regard to the purposes of imposing discipline set forth in standard 1.3.

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.) 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.)

The State Bar has requested, among other things, that respondent be actually suspended for one year. The court agrees with this recommendation. In reaching this conclusion, the court finds *In the Matter of Greenwood* (1998) 3 Cal. State Bar Ct. Rptr. 831, and *Bledsoe v. State Bar* (1991) 52 Cal.3d 1074, to be instructive.

In *Greenwood*, the attorney was found culpable of misconduct in two matters. In the first matter, the attorney failed to perform, improperly withdrew from representation, and failed to cooperate with a State Bar investigation. In the second matter, the attorney failed to perform, failed to communicate, violated a court order, failed to return a client’s file, and failed to cooperate in a State Bar investigation. In aggravation, the attorney caused both of his clients’ lawsuits to be dismissed. No mitigating circumstances were found.⁷ The Review Department recommended that the attorney be suspended for 18 months, that execution of that suspension be stayed, and that he be placed on probation for 2 years, on the condition that he be actually suspended for 90 days.

⁷ The attorney had no prior record of discipline, however, his six years of practice prior to the beginning of his misconduct did not warrant mitigation.

In *Bledsoe*, the California Supreme Court found, in a default proceeding, that the attorney abandoned or failed to perform for four clients, failed to communicate with three clients, failed to return fees to two clients, and failed to cooperate with the State Bar investigation. In mitigation, the attorney had been practicing for a total of seventeen years with no prior discipline.⁸ In aggravation, the attorney, at least initially, failed to participate in the proceedings. The Supreme Court ordered that the attorney be suspended from the practice of law for five years, stayed, with five years' probation and two years' actual suspension.

The misconduct found in the present matter is greater than that found in *Greenwood*, but does not rise to the level of *Bledsoe*. While respondent's lack of a prior record of discipline warrants mitigation, this fact is outweighed by the afore-mentioned aggravation.

The court is especially concerned by respondent's sporadic participation in the present proceedings and his failure to appear at trial. Respondent's failure to participate in these proceedings gives the court little assurance that he no longer poses a threat to the protection of the public, the preservation of confidence in the legal profession, and the maintenance of the highest possible professional standards for attorneys.

Accordingly, the court recommends, among other things, that respondent be actually suspended for one year and until he makes restitution to Jose Gutierrez-Vasquez and Jennifer Garcia.

VI. Recommendations

Accordingly, the court recommends that respondent **Charles Victor Stebley** be suspended from the practice of law for three years, that execution of the suspension be stayed, and that respondent be actually suspended from the practice of law for one year and until:

⁸ However, based on the analysis in the dissenting opinion, it appears that the attorney had only been practicing for twelve years prior to the commencement of his misconduct. (*Bledsoe v. State Bar*, *supra*, 52 Cal.3d at p. 1081.)

(1) The court grants a motion to terminate his actual suspension pursuant to rule 205 of the Former Rules of Procedure of the State Bar of California;

(2) He makes restitution to Jose Gutierrez-Vasquez in the amount of \$3,200 plus 10% interest per annum from June 21, 2005 (or to the Client Security Fund to the extent of any payment from the fund to Jose Gutierrez-Vasquez, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnishes satisfactory proof thereof to the State Bar's Office of Probation;⁹ and

(3) He makes restitution to Jennifer Garcia in the amount of \$4,500 plus 10% interest per annum from May 12, 2009 (or to the Client Security Fund to the extent of any payment from the fund to Jennifer Garcia, plus interest and costs, in accordance with Business and Professions Code section 6140.5), and furnishes satisfactory proof thereof to the State Bar's Office of Probation.

If the period of actual suspension reaches or exceeds two years, it is further recommended that respondent remain actually suspended until he has shown proof satisfactory to the State Bar Court of rehabilitation, present fitness to practice, and present learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. (See Rules Proc. of State Bar, rules 5.400-5.411.)

It is also recommended that respondent be ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for terminating his actual suspension.

⁹ Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

A. Multistate Professional Responsibility Examination

It is further recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination given by the National Conference of Bar Examiners and provide proof of passage to the Office of Probation, within one year after the effective date of the discipline herein or during the period of his actual suspension, whichever is longer.

B. California Rules of Court, Rule 9.20

The court also recommends that respondent be ordered to comply with California Rules of Court, rule 9.20 and to 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 in this matter.¹⁰

C. 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.

Dated: June _____, 2011

PAT McELROY
Judge of the State Bar Court

¹⁰ Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)