

REVIEW DEPARTMENT OF THE STATE BAR COURT

In the Matter of

STEPHEN ALLAN RODRIGUEZ,

A Member of the State Bar.

07-PM-10444

**OPINION ON REVIEW
and ORDER**

In this probation revocation proceeding, the State Bar requests review of a hearing judge's recommendation that respondent Stephen Allan Rodriguez be actually suspended for 90 days for failing to comply with multiple probation conditions. After our independent review of the record (Cal. Rules of Court, rule 9.12), we adopt most of the hearing judge's culpability determinations, but modify the discipline recommendation to include a six-month period of actual suspension.

I. PROCEDURAL AND FACTUAL BACKGROUND

The facts underlying the hearing judge's determination that Rodriguez violated probation are essentially undisputed. Rodriguez was admitted to practice law in California on June 8, 1992. On March 24, 2005, the Supreme Court filed an order suspending Rodriguez for one year. This suspension was stayed provided that Rodriguez complied with all conditions of probation for three years, including a 30-day actual suspension.

On January 31, 2007, the State Bar's Office of Probation filed a Motion to Revoke Probation, alleging that Rodriguez violated the conditions of his probation by: 1) failing to timely file quarterly probation reports; 2) failing to timely file certifications from a certified public accountant confirming that Rodriguez complied with the State Bar's Trust Account

Record Keeping Standards (CPA reports); 3) failing to answer fully, promptly, and truthfully inquiries from the Office of Probation regarding his compliance with the conditions of probation; and 4) failing to comply with the provisions of the State Bar Act and Rules of Professional Conduct.¹

Following trial, the hearing judge found that Rodriguez untimely submitted five of his first six quarterly probation reports, as well as his first four quarterly CPA reports. Additionally, the Office of Probation deemed deficient Rodriguez's quarterly CPA reports for July 10, 2006, October 10, 2006, and January 10, 2007, and did not accept them for filing. The hearing judge also found that Rodriguez failed to respond to a letter from the Office of Probation, dated September 22, 2006, requesting that he answer questions concerning a CPA report. Finally, the hearing judge determined that Rodriguez violated his probation conditions by failing to comply with the State Bar Act and the Rules of Professional Conduct.² This was based on the finding that Rodriguez violated rule 4-100(A) by commingling \$3,363 of non-trust funds in his client trust account on June 17, 2005. Furthermore, finding that Rodriguez submitted a quarterly probation report for this time period in which he declared under penalty of perjury that he had complied with the State Bar Act and the Rules of Professional Conduct, the hearing judge determined that Rodriguez, intentionally or with gross negligence, made a false statement to the Office of Probation in willful violation of Business and Professions Code section 6106.³

The hearing judge found no mitigating factors, but determined in aggravation that the misconduct involved multiple acts of wrongdoing (Rules of Procedure of the State Bar, title IV,

¹Unless otherwise noted, all further references to rule(s) are to the Rules of Professional Conduct.

²The hearing judge mistakenly stated that Rodriguez failed to comply with the Rules of Procedure of the State Bar.

³Unless otherwise noted, all further references to section(s) are to the Business and Professions Code.

Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)(ii)),⁴ and that Rodriguez had a prior record of discipline, which included a one-year stayed suspension conditioned on a three-year probation with a 30-day actual suspension (i.e., the underlying discipline matter giving rise to the probation conditions). (Std. 1.2(b)(i).) Rodriguez's prior discipline involved four client matters wherein Rodriguez stipulated to unaggravated misconduct involving his failure to properly deposit client funds in trust, failure to maintain his client trust account, failure to report judicial sanctions, failure to perform competently, failure to refund unearned fees, and violation of California law proscribing the disclosure of victim-witness information. This misconduct was mitigated by the fact that Rodriguez had no prior disciplinary record, displayed candor, and was remorseful.

II. DISCUSSION

A. The Office of Probation's Request to Strike a Portion of the Hearing Judge's Order

We first address the Office of Probation's request that we delete a "gratuitous remark" from the hearing judge's order granting the motion to revoke Rodriguez's probation. In a footnote in his decision, the hearing judge denied Rodriguez's request to delay adjudication of Rodriguez's handling of \$80,605 he received from Wells Fargo Bank because that issue is the subject of another disciplinary proceeding. The judge explained that: "The court declines to interfere with the State Bar's prosecutorial election to prosecute and litigate Rodriguez's conduct regarding the \$80,605 in the present proceeding instead of another." The Office of Probation contends that the hearing judge was incorrect in finding that the \$80,605 issue was litigated in the present motion to revoke probation and that the hearing judge's comment in the footnote and references elsewhere to the \$80,605 should be stricken. We agree.

The Office of Probation's Motion to Revoke Probation is no model of clarity and offers little assistance in determining the relevance of Rodriguez's handling of the \$80,605.

⁴Unless otherwise noted, all further references to standard(s) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Nonetheless, as argued by the Office of Probation at the hearing below and on review, the reference to the \$80,605 deposit in its moving papers was merely to explain the reason the State Bar investigator subpoenaed Rodriguez's trust account records, but was not part of any substantive probation violation. Based on our independent review of the record, we find that the \$80,605 deposit was not at issue or litigated in this proceeding.

B. Findings and Culpability

Based on our independent review, we conclude that there is a preponderance of evidence that Rodriguez is culpable of the following probation violations:

1. Probation Reporting Violations

Pursuant to his probation conditions, Rodriguez is required to submit to the Office of Probation on every January 10, April 10, July 10, and October 10, a written probation report, stating under penalty of perjury that he complied with the Rules of Professional Conduct of the State Bar of California, the State Bar Act, and all conditions of his probation during the preceding calendar quarter. Rodriguez submitted five of his first six probation reports late as follows:

<u>Report</u>	<u>Due</u>	<u>Filed</u>
First	July 10, 2005	July 13, 2005
Second	October 10, 2005	October 25, 2005
Third	January 10, 2006	January 11, 2006
Fourth	April 10, 2006	Timely Filed
Fifth	July 10, 2006	July 13, 2006
Sixth	October 10, 2006	October 18, 2006

Rodriguez's second, third, and fourth probation reports also were incomplete. He failed to state whether he was in compliance with the State Bar Act, which merely requires Rodriguez to check a box. However, the Office of Probation mistakenly filed the reports even though they were incomplete, and when it notified Rodriguez that the reports were incomplete, he promptly

corrected and re-submitted those three reports on July 3, 2006. Thus, we find Rodriguez violated the conditions of his probation by filing five probation reports late.

2. CPA Reporting Violations

At the same time his probation reports are due, Rodriguez also is required to submit his CPA reports to the Office of Probation. Rodriguez submitted each of his first four CPA reports late as follows:

<u>Report</u>	<u>Due</u>	<u>Filed</u>
First	July 10, 2005	July 13, 2005
Second	October 10, 2005	October 26, 2005
Third	January 10, 2006	January 19, 2006
Fourth	April 10, 2006	April 11, 2006

Rodriguez's first four CPA reports were deficient in that none of them contained the language required under his probation conditions. Also, Rodriguez's first, second, and fourth CPA reports did not cover the correct reporting periods. Again, despite these deficiencies, the reports were mistakenly filed by the Office of Probation. However, unlike with the probation reports, Rodriguez failed to correct the CPA reports even after he was notified of the problems. Finally, even though Rodriguez submitted his fifth, sixth, and seventh CPA reports, they were not filed due to various deficiencies. We find Rodriguez in violation of his probation for submitting insufficient and late CPA reports.

3. Inquiry Violation

As a condition of his probation, Rodriguez is required to answer fully, promptly, and truthfully any inquiries by the Office of Probation relating to whether he is complying with his probation conditions. Rodriguez violated this condition of his probation when he failed to respond to a September 22, 2006 letter from the State Bar in which it asked him at least four questions regarding a CPA report dated September 11, 2006, that he submitted. At the time of the trial below, Rodriguez had still not responded.

4. State Bar Act and Rules of Professional Conduct Violations

Rodriguez was charged with violating the probation condition that requires him to comply with the State Bar Act and the Rules of Professional Conduct by: (a) failing to properly maintain his client trust account in violation of rule 4-100(A); and (b) making misrepresentations to the Office of Probation in violation of section 6106.

a. Commingling funds in violation of rule 4-100(A)

Rule 4-100(A) provides that all funds received for the benefit of clients must be deposited in a client trust account and that funds belonging to the attorney must not be deposited or otherwise commingled in that account. “The rule absolutely bars use of the trust account for personal purposes, even if client funds are not on deposit.” (*Doyle v. State Bar* (1982) 32 Cal.3d 12, 22-23.) Whereas the hearing judge determined that Rodriguez commingled \$3,363, we find the amount improperly commingled in willful violation of rule 4-100(A) was \$1,004 based on the deposit of one check. Only the check for \$1,004 was paid directly to Rodriguez for a non-client purpose (rent) and deposited in his client trust account.

The remainder of the funds deposited in Rodriguez’s client trust account on June 17, 2005, consisted of two checks payable to Rodriguez’s son for rent, a money order payable to the United States Bankruptcy Court, and a check for which the payee is not disclosed. The evidence does not show that the remaining funds in Rodriguez’s client trust account were payable to him or were funds he was otherwise entitled to keep. Thus, on this limited record, we cannot determine that it is more probable than not either that Rodriguez was entitled to the remainder of the funds rendering it improper to deposit them in his trust account (see *In the Matter of Doran* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871, 876) or that Rodriguez funneled a non-client’s business funds through his trust account (*In the Matter of McKiernan* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420, 425.).

Furthermore, in determining that the entire \$3,363 was commingled, the hearing judge improperly relied on statements from Rodriguez’s declaration in assessing his credibility. At

trial, based on the objections of the Office of Probation, the hearing judge excluded from evidence paragraph five of Rodriguez's declaration filed in support of his probation revocation response. That paragraph stated: "There has only been one occasion where this mistake occurred. It appears that my son Justin Rodriguez made the deposits on June 17, 2005 and the bank made an error in depositing those checks on June 17, 2005 into my trust account instead of into his personal account which he maintains at the same bank." Although the hearing judge denied admission of these statements into evidence, he nevertheless relied on them to find that Rodriguez provided inconsistent explanations for the deposits on June 17, 2005. Having excluded the statements at trial, it would be inappropriate to rely on them to find culpability.

b. Allegations of misrepresentations in violation of section 6106

Section 6106 prohibits an attorney from engaging in conduct involving moral turpitude, dishonesty or corruption. In its Motion to Revoke Probation, the Office of Probation alleged, without any specificity, that Rodriguez violated section 6106 and committed acts of moral turpitude by "making misrepresentations to the Office of Probation."

According to the hearing judge, Rodriguez made a false statement under penalty of perjury to the Office of Probation when he submitted an amended probation report on July 3, 2006, for the quarterly reporting period of July 1, 2005 to September 30, 2005, indicating that he had complied with the State Bar Act and the Rules of Professional Conduct. The hearing judge concluded that this was a misrepresentation because that was the calendar quarter when in fact Rodriguez had wilfully violated rule 4-100(A) on June 17, 2005 by depositing the \$1,004 check into his client trust account. We disagree with the hearing judge's conclusion that these facts demonstrate a violation of section 6106. Since the trust account violation occurred prior to the quarterly period covered by the probation report, there is no evidence that Rodriguez made any misrepresentation in the amended quarterly report in question.

Although Rodriguez stated under penalty of perjury that he had complied with the State Bar Act and the Rules of Professional Conduct in his quarterly report filed on July 13, 2005,

which corresponds to the time period when the trust account violation occurred, there is no evidence that Rodriguez knew or should have known that his representation was incorrect. Thus, under these circumstances, we do not find that Rodriguez intentionally or with gross negligence made misrepresentations to the Office of Probation with respect to his quarterly report filed on July 13, 2005.

When pressed at oral argument for clarification regarding the charges, the Office of Probation asserted that Rodriguez made misrepresentations when he submitted to the Office of Probation at least three trust account ledgers containing discrepancies for July, September, and October, 2005. According to the Office of Probation, after he was notified of the discrepancies by another unit of the State Bar (i.e., investigations), Rodriguez failed to correct his ledgers with the Office of Probation, and thereby falsely allowed the Office of Probation to continue to believe they were accurate when he knew they were not. We disagree.

Nothing in the record indicates that these mistakes were attributable to anything other than simple negligence. Without additional evidence to establish that Rodriguez knew or should have known that the account ledgers contained mistakes at the time he submitted them, we do not find that he intentionally or with gross negligence made misrepresentations to the Office of Probation. As for his failure to subsequently correct the mistakes with the Office of Probation, we do not find it reasonable under the circumstances to expect a respondent to understand that answering questions from the investigation unit of the State Bar about his trust account is not sufficient clarification for the purposes of his probation conditions with the Office of Probation. In February 2006, when a State Bar investigator inquired about the discrepancies in his ledgers, Rodriguez explained that the majority of the discrepancies were due to mistakes. There is no evidence to indicate that, having responded to the State Bar's inquiry, Rodriguez knew or should have known that he also had to separately update his information with the Office of Probation.

Thus, in light of the lack of notice in the Motion to Revoke Probation and the limited record before us, we decline to find a violation of section 6106.⁵

C. Aggravating and Mitigating Factors

Based on our independent review of the record, we adopt the hearing judge's findings in aggravation and mitigation as modified below.

1. Aggravating factors

The Office of Probation urges us to find in aggravation that Rodriguez's misconduct was followed by bad faith because he failed to ever file his required CPA reports or to respond to an inquiry letter. An attorney's continued failure to comply with his probation conditions after being notified of that non-compliance is properly considered a substantial aggravating circumstance. (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 530.) Rather than evidencing bad faith, such recalcitrance, if proved, more accurately demonstrates indifference toward rectification of or atonement for the consequences of one's misconduct. (Std. 1.2(b)(v); see also *In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 313 [although failure to pay restitution was basis for revoking probation, attorney's attitude toward restitution evidenced indifference and warranted increasing the recommended discipline].)

Although the standard of proof for finding culpability in revocation proceedings is preponderance of the evidence (Rules Proc. of State Bar, rule 561), the Office of Probation has the burden of establishing aggravating circumstances by clear and convincing evidence. (Std. 1.2(b).) On this limited record, we find no evidence establishing that the Office of Probation notified Rodriguez that his CPA reports for October 10, 2006, and January 10, 2007, were deficient and thus not filed. Nor do we find evidence establishing that the Office of Probation

⁵However, as set forth below, due to the mistakes in Rodriguez's ledgers, we do find in aggravation that Rodriguez committed an uncharged violation of rule 4-100(B)(3) for his failure to accurately maintain his trust account records.

reminded Rodriguez of his failure to respond to its inquiry letter of September 22, 2006. The evidence shows only that the Office of Probation informed Rodriguez that his CPA report for July 10, 2006, was not filed; it does not establish that Rodriguez failed to rectify the deficiency or to submit an amended CPA report. For these reasons, we decline to find additional aggravation on the grounds requested.

The Office of Probation further contends that additional aggravation occurred as a result of its recurring need to intervene to try to secure Rodriguez's compliance with probation conditions he voluntarily undertook. We agree. The Office of Probation sent three letters to Rodriguez between July and September 2006, requesting that he submit a CPA report for July 10, 2006, that complied with his probation conditions. The repeated attempts by the Office of Probation to obtain Rodriguez's compliance are inconsistent with the self-governing nature of probation as a rehabilitative aspect of the attorney disciplinary system and are a proper factor in aggravation. (*In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.)

Additionally, since respondent did not maintain accurate trust account records, we find in aggravation that respondent committed an uncharged violation of rule 4-100(B)(3). (Std. 1.2(b)(iii).)

2. Mitigating factors

Rodriguez urges us to consider several factors in mitigation, and attached supporting documentation to his appellate brief. We decline to consider any documents dated prior to the April 13, 2007, hearing in this matter since Rodriguez offers no explanation for his failure to present them at that time. His documents dated after the April hearing are also unavailing since none indicates that the Office of Probation accepted and filed them.⁶ Moreover, respondent

⁶The documents that post-date the April hearing consist of: a cover letter dated April 16, 2007, purporting to include a CPA report for April 10, 2007; a quarterly report received on July 6, 2007; a CPA report dated July 2, 2007; and a cover letter dated October 9, 2007, purporting to include the quarterly and CPA reports for October 10, 2007.

failed to properly file a motion to augment the record. Thus, we agree with the hearing judge's finding that Rodriguez failed to establish any circumstances in mitigation.

D. Level of Discipline

The Office of Probation argues that Rodriguez's actual suspension should be increased to one year. Rodriguez asserts that the Office of Probation's request should be denied but offers no argument regarding the appropriate discipline.

In determining the appropriate level of discipline, we look to the standards, the unique facts of this case, and decisional law. (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.) The standard most apt in this proceeding is 1.7(a), which states: "If a member is found culpable of professional misconduct . . . and the member has a record of one prior imposition of discipline . . . the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior"

In reviewing the facts unique to this case, we observe that in probation revocation proceedings, the greatest degree of discipline is warranted for violations of probation conditions significantly related to the misconduct for which probation was imposed. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) Conversely, lesser discipline is more appropriate for a violation of a less significant probation condition under circumstances that do not call into question either the need for public protection or an attorney's progress toward rehabilitation. (*Ibid.*) Because the probation conditions requiring Rodriguez to timely submit quarterly and CPA reports are intended to achieve his rehabilitation from his prior ethical lapses involving trust account violations and a failure to report judicial sanctions to the State Bar, we consider such conditions to be significantly related to his misconduct. Moreover, both his prior misconduct and his present probation violations involve inattention to his professional duties and a continued unwillingness or inability to conform to the standards required of attorneys licensed in this state. Absent compelling mitigating circumstances, an attorney who

willfully violates a significant condition of probation can anticipate actual suspension as the expected result. (*In the Matter of Gorman, supra*, 4 Cal. State Bar Ct. Rptr. at p. 574.)

Furthermore, since filing quarterly probation reports is integral to a probationer's rehabilitation (*In the Matter of Weiner* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 759, 763), Rodriguez's untimely submission of five quarterly reports and four CPA reports, as well as his three deficient CPA reports, raises concern about his rehabilitation progress. (See *In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 151 [attorney's failure to comply with restitution requirement or to file any probation reports reflected adversely on his rehabilitation efforts and called into question the need to protect the public].)

Rodriguez's misconduct involved five quarterly report violations, seven CPA report violations, failure to respond to an Office of Probation inquiry, and violation of the requirement to comply with the Rules of Professional Conduct. This misconduct is untempered by any mitigating factor but aggravated by several facts, including Rodriguez's prior record of discipline, multiple acts of misconduct, and repeated attempts by the Office of Probation to obtain his compliance.

Case law which bears similarity to Rodriguez's facts include *In the Matter of Taggart, supra*, 4 Cal. State Bar Ct. Rptr. 302 (*Taggart*), *In the Matter of Gorman, supra*, 4 Cal. State Bar Ct. Rptr. 567 (*Gorman*), and *In the Matter of Laden* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678 (*Laden*).

In *Taggart*, we recommended an attorney be actually suspended for six months after he failed to make the restitution payments imposed as a condition of probation. In aggravation, the attorney had two prior incidents of discipline and willfully failed to comply with restitution. We found no evidence in mitigation.

In *Gorman*, we recommended an attorney be actually suspended for 30 days after he violated two probation conditions to timely complete restitution and ethics school. Although we attributed some mitigation to Gorman's cooperation, good faith efforts to pay restitution, and

emotional difficulties, these factors did not outweigh aggravating circumstances that included prior misconduct, the fact that the State Bar had to repeatedly remind the attorney to comply with probation, the fact that the attorney misrepresented the official participation of a third party in the proceedings, and the fact that the attorney's failure to pay restitution was significantly related to the underlying misconduct.

In *Laden*, we recommended a 90-day actual suspension for an attorney who was found culpable of six probation violations consisting of five untimely restitution payments and one untimely quarterly report. In aggravation, the attorney committed uncharged misconduct by failing to timely make 14 additional restitution payments and to timely file six quarterly reports. His misconduct was further aggravated by the fact that he had four prior incidents of discipline, multiple acts of wrongdoing, and repeated reminders to comply with probation. We observed that this case would have warranted more than a 90-day actual suspension had it not been for mitigation consisting of a good faith effort to make restitution, financial hardship, recognition of wrongdoing, cooperation with the victim, and community service.

As in *Gorman*, Rodriguez's violations are significantly related to his misconduct. Similarly, Rodriguez has one prior incident of discipline and required repeated reminders to comply with probation, but, unlike the attorney in *Gorman*, Rodriguez committed more extensive probation violations and provided no evidence in mitigation. For these reasons, we believe Rodriguez's circumstances warrant discipline more severe than the 30-day actual suspension we recommended in *Gorman*. Rodriguez's fourteen probation violations more closely match the number of violations in *Laden*, as do the facts that the attorney in *Laden* required repeated requests to comply with probation and committed multiple acts of misconduct. Unlike the attorney in that case, however, Rodriguez has no countervailing mitigation. We consider the recommended discipline in *Laden* the lower threshold of appropriate discipline in this matter.

The Office of Probation also urges us to consider *In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445 (*Howard*) and *In the Matter of Tiernan, supra*, 3 Cal State

Bar Ct. Rptr. 523 (*Tiernan*). In *Howard*, we recommended a one-year actual suspension after an attorney committed four probation violations by failing to file two quarterly probation reports, failing to deliver a former client's personal financial records to an accountant to determine the amount of restitution the attorney owed, and failing to establish whether the attorney complied with a prior civil court order. We found no mitigation, but the attorney's violations were aggravated by his default in the proceedings, multiple acts of misconduct, and the existence of a prior record of discipline in which he received a three-year stayed suspension.

In *Tiernan*, we recommended an 11-month actual suspension for an attorney who committed three probation violations by failing to cooperate with his probation monitor and failing to timely file two quarterly probation reports. We found no mitigation but considered aggravating the attorney's four prior incidents of discipline, his multiple acts of misconduct, and his uncharged violations consisting of four late quarterly probation reports and a defective CPA report. The attorney's late filing of probation reports was identical to the prior misconduct for which he was disciplined. Furthermore, he filed each of his first seven probation reports late. For these reasons, we concluded that the attorney's latest probation violations warranted the greatest level of discipline.

Although the extent of probation violations in *Howard* and *Tiernan* closely match that of Rodriguez's, significant differences distinguish these cases from the facts in Rodriguez's case. Unlike the attorney in *Howard*, Rodriguez has fully participated in these proceedings, and unlike the attorney in *Tiernan*, Rodriguez neither has four prior incidents of discipline nor prior misconduct involving similar behavior.

In view of these cases, the applicable standards, and the facts of this case, we believe a six-month actual suspension will adequately address Rodriguez's violation of probation conditions significantly related to his misconduct and further impress upon him the importance of strict compliance with probation conditions as an integral step toward rehabilitation.

III. RECOMMENDATION

We recommend that the probation imposed on STEPHEN ALLAN RODRIGUEZ in the Supreme Court's March 24, 2005, order in case number S130487 (State Bar Court case number 02-O-10727, et al.) be revoked, that the stay of execution of the one-year suspension imposed in that order be lifted, that Rodriguez be suspended from the practice of law for one year, that execution of the one-year suspension be stayed, and that Rodriguez be placed on a new three-year period of probation on the conditions recommended by the Hearing Department of the State Bar Court in its Order Granting Motion to Revoke Probation filed May 11, 2007, except that Rodriguez is to be actually suspended from the practice of law in the State of California for the first six months of his probation. At the expiration of the probation period, if Rodriguez has complied with all the terms of probation, the order of the Supreme Court suspending him from the practice of law for one year will be satisfied and the suspension will be terminated.

We also add as a condition of probation that, within one year of the effective date of the Supreme Court order in this matter, Rodriguez shall provide to the Office of Probation evidence of successful completion of both the State Bar Ethics School and State Bar Client Trust Accounting School since Rodriguez completed both courses more than two years ago. (See Rules Proc. of State Bar, rule 290(a).)

IV. RULE 9.20 AND COSTS

We recommend that Rodriguez 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. 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.

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 Business and Professions Code section 6140.7 and as a money judgment.

V. PROFESSIONAL RESPONSIBILITY EXAMINATION

We do not recommend that Rodriguez be required to take and pass a professional responsibility examination because it appears on this record that he successfully passed the Multi-State Professional Responsibility Examination in August 2006.

VI. INACTIVE ENROLLMENT

Since respondent is subject to a stayed suspension, he has been found to have violated probation, and it has been recommended that he be actually suspended due to the probation violation, the requirements of section 6007, subdivision (d)(1), are satisfied. Therefore, we order that respondent be involuntarily enrolled as an inactive member of the State Bar of California in accordance with section 6007, subdivision (d). This enrollment shall be effective 30 days after this order is filed. It is also recommended that the period of inactive enrollment pursuant to section 6007, subdivision (d), be credited against the period of actual suspension ordered in this matter. (Bus. & Prof. Code § 6007, subd. (d)(3).)

REMKE, P. J.

We concur:

WATAI, J.

EPSTEIN, J.

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on April 25, 2008, I deposited a true copy of the following document(s):

OPINION ON REVIEW AND ORDER FILED APRIL 25, 2008

in a sealed envelope for collection and mailing on that date as follows:

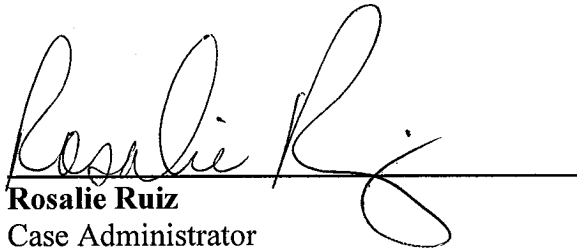
- [X]** by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

STEPHEN A. RODRIGUEZ
THE LAW OFFICES OF RODRIGUEZ & RODRIGUEZ
4801 WILSHIRE BLVD STE 303
LOS ANGELES, CA 90010

- [X]** by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

TERRIE L. GOLDADE, Probation Unit, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **April 25, 2008**.


Rosalie Ruiz
Case Administrator
State Bar Court