

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of ) Case No.: **08-H-11721-DFM**  
)  
**JASON ROBERT WALSH,** )  
) **DECISION**  
)  
**Member No. 158471,** )  
)  
A Member of the State Bar. )

**INTRODUCTION**

In this reproof violation proceeding, respondent **Jason Robert Walsh** is found culpable, by clear and convincing evidence, of violating conditions attached to a public reproof imposed on him in October 2007, in State Bar Court case number 06-C-14973.

In view of respondent's misconduct, the aggravating circumstances, and the lack of any mitigating circumstances, the court recommends, among other things, that respondent be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that he be suspended for a minimum of one year and until the State Bar Court grants a motion to terminate his suspension. (Rules Proc. of State Bar, rule 205.)

**PERTINENT PROCEDURAL HISTORY**

The Office of Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a notice of disciplinary charges (NDC) on December 19, 2008. Respondent filed his response to the NDC on February 5, 2009.

On February 5, 2009, an in-person status conference was held. The State Bar was represented at the status conference by the assigned deputy trial counsel, who appeared in-person; respondent appeared on his own behalf. At the status conference, the court ordered, among other things, that a pretrial conference would be held in-person on June 29, 2009, at 9:30 a.m., pretrial statements must be filed no later than June 22, 2009, and the trial in the instant matter was to begin on July 7, 2009 at 9:30 a.m. On February 9, 2009, the court order setting the pretrial conference date, the due date of the pretrial statements, and the trial date was filed and served on respondent, by first-class mail, with postage fully prepaid, addressed to respondent at the address provided in his response to the NDC, which address was also his official membership records address (official address). Thereafter, on April 24, 2009, the State Bar properly served respondent with a Notice in Lieu of Subpoena, requiring respondent's attendance at trial on July 7, 8, and 9, 2009.

On June 12, 2009, the State Bar filed a Motion for Order that the Truth of Matters Be Deemed Admitted. Attached to the motion was a First Set of Requests for Admission Propounded by the State Bar of California, containing 22 requests for admission.

Respondent did not file a pretrial statement as ordered; nor did he appear at the pretrial conference on July 29, 2009. On July 7, 2009, respondent failed to appear for trial.

As respondent did not appear at trial and as the requirements of rule 201 of the Rules of Procedure of the State Bar of California (Rules of Procedure) were met, on July 7, 2009, the court filed an Order of Entry of Default (Rule 201—Failure to Appear) and Order Of Involuntary Inactive Enrollment.<sup>1</sup> A copy of said order was properly served on respondent on July 7, 2009, by certified mail, return receipt requested, addressed to respondent at his official address. The

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<sup>1</sup>Pursuant to Business and Professions Code section 6007, subdivision (e), respondent's involuntary inactive enrollment was effective three days after the service of the Order of Involuntary Inactive Enrollment by mail.

court also granted the State Bar's pending motion for an order deeming as true the matters set forth in the 22 requests for admissions previously propounded on respondent.<sup>2</sup>

### **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. (Rules Proc. of State Bar, rule 200(d)(1)(A).)

#### **Jurisdiction**

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

#### **Background**

On October 4, 2007, respondent entered into and executed a Stipulation Re Facts, Conclusions of Law and Disposition (Stipulation) with the State Bar of California in State Bar case No. 06-C-14973, whereby he agreed to receive a public reproof and comply with the conditions attached to the reproof for a period of three years. The conditions attached to the reproof were specified in the Stipulation that respondent signed. On October 16, 2007, the State Bar Court filed an order approving the Stipulation in case No. 06-C-14973, thereby imposing a public reproof with conditions upon respondent (Order).

On or about October 16, 2007, the Order was properly served by first-class mail on respondent. Respondent, who received the Order, had actual notice of the Order, the Stipulation and the contents of both.

Pursuant to the Order, respondent was required to comply with the following terms and conditions from the effective date of the Order:

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<sup>2</sup>The July 7, 2009 order deeming as true the matters in the request for admissions was signed by the court on July 10, 2009, and filed and properly served on the parties on July 14, 2009.

1. Comply with the conditions attached to the reproof for a period of three years;
2. Contact the Office of Probation within 30 days of the effective date of the discipline and schedule a meeting with the assigned probation deputy to discuss the terms and conditions of respondent's reproof;
3. Submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the condition period attached to the reproof, certifying under penalty of perjury whether respondent had complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of the reproof during the preceding calendar quarter, and file a final report with the same information no earlier than 20 days before the last day of the condition period and no later than the last day of the period;
4. Provide the Office of Probation with satisfactory proof of attendance at a session of the State Bar's Ethics School and passage of the test given at the end of that session within one year of the effective date of discipline;
5. Comply with all conditions of probation imposed in the underlying criminal matter and so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation;
6. Provide a complete copy of the Stipulation within 45 days of signing the Stipulation to Dr. Ihor Galarnyk, a medical doctor, certified by the American Society of Addiction Medicine (ASAM), whom respondent selected for the purpose of submitting to a substance abuse evaluation (Evaluation) and to all treatment providers;
7. Provide the Office of Probation with an original, signed declaration from Dr. Galarnyk and all treatment providers acknowledging receipt of a complete copy of the Stipulation within 30 days of the effective date of the discipline;

8. Execute all necessary waivers of confidentiality with Dr. Galarnyk, as well as with any treatment providers, including drug testing facilities within 45 days of signing the Stipulation;

9. Provide the Office of Probation, within thirty 30 days of the effective date of the discipline, with a copy of the waiver of confidentiality provided to Dr. Galarnyk, as well as any treatment providers, including drug testing facilities;

10. Provide the Office of Probation an original, signed declaration from Dr. Galarnyk as well as all other treatment providers, including drug treatment facilities, acknowledging receipt of the waiver of confidentiality within 30 days of the effective date of the discipline;

11. Undergo an evaluation within 30 days of the effective date of discipline with Dr. Galarnyk for the purpose of: (a) determining whether respondent has a substance abuse or addiction problem, (b) setting treatment conditions, if any, that respondent is to undertake as a result of the Evaluation, and (c) obtaining a written report from Dr. Galarnyk;

12. Bear all costs of the evaluation, the resulting report, and any treatment conditions recommended by the evaluator. Respondent agreed that his treatment conditions may change if his treatment providers deem it necessary, and that he is to bear the cost of such treatment, which could include in-patient treatment. Respondent further agreed that: (a) the treatment conditions, if any, would become part of his reprobation requirements, (b) he must provide the Office of Probation with any proof of treatment compliance or waiver requested by the Office of Probation, and (c) any violation of the treatment conditions would be a violation of the reprobation requirements;

13. Provide a copy of Dr. Galarnyk's written report to the Office of Probation within 60 days of the effective date of the discipline;

14. Report compliance with the treatment conditions, by statement made under penalty of perjury, with each written quarterly report to the Office of Probation;

15. Have Dr. Galarnyk submit to the Office of Probation by each quarterly report deadline, an original, signed declaration that respondent is in compliance with the treatment conditions.

The October 16, 2007 Order became effective on November 6, 2007.

On or about October 31, 2007, the Office of Probation wrote a letter to respondent, reminding him of the terms and conditions of his reprobation and listing the compliance due-dates for the reprobation conditions. The October 31, 2007 letter warned respondent that failure to timely submit reports or any other proof of compliance could result in a non-compliance referral to the Enforcement Unit of the Office of the Chief Trial Counsel. Among other attachments to the letter, were copies of the reprobation conditions, a blank quarterly report form with instructions, and information and a schedule for State Bar Ethics School.

The letter was mailed on or about October 31, 2007, via the United States Postal Service, first class mail, postage-paid, addressed to respondent at his official State Bar membership records address and was received by him.

Thereafter, on or about March 3, 2008, the Office of Probation mailed another letter to respondent via the United States Postal Service, first class mail, postage-paid, addressed to respondent's official State Bar membership records address. In that letter, the Office of Probation reminded respondent of the October 31, 2007 letter and the terms and conditions of his reprobation. Specifically, the March 3, 2008 letter stated that one of the reprobation conditions required respondent to submit quarterly reports on or before January 10, April 10, July 10 and October 10 of every year during the period of reprobation. The letter also advised that the Office of Probation had not received respondent's first quarterly report that was due on January 10, 2008.

The letter further advised respondent that he had not fulfilled the reprobation condition that he contact the Office of Probation by December 6, 2007, to schedule a meeting to discuss the terms and conditions of his reprobation. Additionally, the letter informed respondent that if, for any reason, he could not timely comply with the terms and conditions of the discipline imposed, he must file the proper motion with the Hearing Department or Review Department of the State Bar Court prior to the compliance due date in order to avoid a non-compliance referral. Attached to the March 3, 2008 letter was a copy of the October 31, 2007 letter and all of its enclosures. This March 3, 2008 letter was received by respondent.

On July 11, 2008, respondent told the State Bar that he had unilaterally decided to substitute Patrick MacAfee, Ph.D. (Dr. MacAfee) in lieu of Dr. Galarnyk for the purpose of submitting to a substance abuse evaluation (See reprobation condition No. 6 and 11 above.) On or about July 31, 2008, the State Bar informed respondent that it would agree to the substitution of Dr. MacAfee for Dr. Galarnyk. On or about December 3, 2008, the Hearing Department of the State Bar Court filed an order approving a written stipulation (the December 2008 stipulation) between the State Bar and respondent. Pursuant to the December 2008 stipulation, the parties agreed to substitute Dr. MacAfee for Dr. Galarnyk for all purposes relevant to the October 2007 Stipulation and Order. The State Bar and respondent also agreed in the December 2008 stipulation that the substitution of Dr. MacAfee for Dr. Galarnyk would not have any impact on either the other obligations and deadlines set forth in the October 2007 Stipulation and Order or on the State Bar's potential claims against respondent in the instant matter.

In or about July 2008, respondent provided a complete copy of the Stipulation to Dr. MacAfee. On or about July 29, 2008, Dr. MacAfee provided the Office of Probation with a facsimile copy of a signed declaration dated July 25, 2008, acknowledging his receipt of the Stipulation from respondent.

Respondent executed two different waivers of confidentiality with Dr. MacAfee, dated July 11 and July 30, 2008, respectively. On or about July 29 and July 30, 2008, Dr. MacAfee provided the Office of Probation with facsimile copies of the July 11 and July 30, 2008 waivers of confidentiality. On or about July 29, 2008, Dr. MacAfee also provided the Office of Probation with a facsimile copy of a signed declaration dated July 25, 2008, acknowledging his receipt of a waiver of confidentiality from respondent dated July 11, 2008. On or about August 1, 2008, respondent provided the Office of Probation with a third waiver of confidentiality that he signed and dated July 31, 2008.

On August 7, 2008, Dr. MacAfee sent respondent a written agreement for counseling that recommended specific treatment conditions to be followed.

On August 9, 2008, Dr. MacAfee terminated his therapy relationship with respondent due to respondent's alleged failure to cooperate. In or about September 2008, Dr. MacAfee agreed to reestablish his therapy relationship with respondent, subject to specific recommended treatment conditions. But, on or about December 15, 2008, Dr. MacAfee again terminated his therapy relationship with respondent due to respondent's alleged continued failure to cooperate.

### **Violation of Reproval Conditions**

Respondent did not comply with the conditions attached to his reproval, as follows:

1. Respondent failed to timely contact the Office of Probation to schedule an initial meeting by the deadline set forth in the Order.<sup>3</sup> Respondent first contacted the Office of Probation on March 11, 2008, and an initial meeting was held on April 3, 2008;
2. Respondent failed to timely submit the quarterly reports that were due by the January 10, April 10, July 10, and October 10, 2008 deadlines set forth in the Order.

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<sup>3</sup> As set forth above, the Order imposing the public reproval became effective on November 6, 2007. Thus, as noted in the Office of Probation's March 3, 2008 letter, respondent was required to contact the Office of Probation by December 6, 2007.



Specifically, respondent did not file his quarterly report due on January 10, 2008 until April 18, 2008; he did not file his quarterly report due on April 10, 2008 until April 18, 2008; and he did not file his quarterly report due on July 10, 2008 until August 11, 2008. Additionally, as of December 19, 2008, the date of the filing of the NDC, respondent had not filed his quarterly report due on October 10, 2008;

3. Respondent failed to submit declarations under penalty of perjury that he complied with the conditions of probation imposed in the underlying criminal matter, which declarations were due in conjunction with quarterly reports by the January 10, 2008, April 10, 2008, July 10, 2008, and October 10, 2008 deadlines set forth in the Order. Nor were the declarations submitted at any time prior to December 19, 2008, the file date of the NDC;

4. Respondent failed to submit statements made under penalty of perjury reporting compliance with treatment conditions, in quarterly reports that were due by the January 10, 2008, April 10, 2008, July 10, 2008 and October 10, 2008 deadlines set forth in the Order, or at any time prior to December 19, 2008, the file date of the NDC;

5. Respondent failed to provide a complete copy of the Stipulation to Dr. Galarnyk and all treatment providers by the deadline set forth in the Order;

6. Respondent failed to provide the Office of Probation with an original, written declaration from Dr. Galarnyk and all treatment providers acknowledging receipt of the Stipulation by the deadline set forth in the Order;

7. Respondent failed to execute all necessary waivers of confidentiality with Dr. Galarnyk and all treatment providers, including drug testing facilities, by the deadline set forth in the Order;

8. Respondent failed to provide the Office of Probation with copies of all waivers of confidentiality by the deadline set forth in the Order;

9. Respondent failed to provide the Office of Probation with an original, signed declaration from Dr. Galarnyk and all treatment providers acknowledging receipt of all waivers by the deadline set forth in the Order;

10. Respondent failed to undergo the evaluation (see requirement Nos. 6 and 11, listed under the heading, "Facts," above) with Dr. Galarnyk by the deadline set forth in the Order, or at any time prior to December 19, 2008, the file date of the NDC;

11. Respondent failed to provide the Office of Probation with Dr. Galarnyk's written evaluation report by the deadline set forth in the Order or at any time prior to December 19, 2008;

12. Respondent failed to comply with the treatment conditions recommended by his treatment providers, as required in the Order;

13. Respondent failed to provide to the Office of Probation satisfactory proof of attendance of Ethics School and passage of the test given at the end of that session by the deadline set forth in the Order or at any time prior to December 19, 2008.

**Rule 1-110 of the Rules of Professional Conduct of the State Bar of California**<sup>4</sup>

Rule 1-110 requires an attorney to comply with the conditions attached to a reproof or other discipline administered pursuant to Business and Professions Code sections 6077 and 6078 and rule 9.19, California Rules of Court.

By not complying with the conditions attached to the reproof order, as set forth above, respondent willfully violated rule 1-110.<sup>5</sup>

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<sup>4</sup> References to rule(s) are to the Rules of Professional Conduct, unless otherwise stated.

<sup>5</sup> The State Bar alleges in paragraph 34 of the NDC that "[r]espondent failed to have any of his treatment providers submit quarterly reports that were due by the January 10, 2008, April 10, 2008, July 10, 2008 and October 10, 2008 deadlines set forth in the Order or at any time since." But, there is no evidence of such a requirement in the list of reproof conditions set forth in the NDC or in the conditions of reproof set forth in the October 16, 2007 Stipulation and

## LEVEL OF DISCIPLINE

### Aggravating Circumstances

The State Bar bears the burden of establishing aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b).)<sup>6</sup> There are several aggravating factors present here. (Std. 1.2(b).)

### **Prior Record of Discipline**

Respondent's prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).) In State Bar Court case No. 06-C-14973, a public reproof with conditions was imposed pursuant to the parties' stipulation for a 2007 DUI that occurred on September 1, 2006, together with a prior DUI conviction in 1999.

### **Multiple Acts of Misconduct**

Respondent engaged in multiple acts of misconduct by violating numerous conditions of his reproof. (Standard 1.2(b)(ii).)

### **Lack of Cooperation and Participation in Disciplinary Proceeding**

Respondent's failure to file a pretrial statement as ordered, his failure to appear at the pretrial conference of which he had notice, and his failure to appear for trial on July 7, 2009 are serious aggravating circumstances. Not only was respondent given notice of the trial, but, as set forth above, the State Bar served respondent with a notice to appear in lieu of subpoena in accordance with Code of Civil Procedure section 1987. (Rules Proc. of State Bar, rules 152, 210.) By ignoring the notice to appear in lieu of subpoena with which he had been served, respondent, in effect, disobeyed a subpoena to appear before the State Bar Court. (Cf., *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 702-203.)

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Order. Thus, the court cannot find that respondent failed to have any of his treatment providers submit quarterly reports.

<sup>6</sup> All further references to standard(s) are to this source.

## Mitigating Circumstances

As respondent's default was entered in this matter, no evidence in mitigation was presented and none is apparent from the record. (Std. 1.2(e).)

## **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 2.9 provides that an attorney's willful violation of rule 1-110 must result in suspension. Standard 1.6(b) adds that the specific discipline for the particular violation found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing disciplinary sanctions. Further, standard 1.7(a) provides that if an attorney, who has been found culpable of professional misconduct in a disciplinary proceeding, has a record of one prior imposition of discipline, the degree of discipline imposed in the current proceeding must be greater than that imposed in the prior proceeding unless the prior discipline was remote in time and the offense minimal in severity.

The standards, however, are only guidelines and do not mandate the discipline to be imposed. (*In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 250-251.) "[E]ach case must be resolved on its own particular facts and not by application of rigid standards." (Id. at p. 251.) Nevertheless, while the standards are not binding, they are entitled to significant weight. (*In re Silverton* (2005) 36 Cal.4th 81, 92.) The Supreme Court will reject a recommendation consistent with the standards only when the court entertains "grave doubts as to its propriety." (*In re Naney* (1990) 51 Cal.3d 186, 190.) Even though the standards are merely

guidelines for the imposition of discipline, there is “no reason to depart from them in the absence of a compelling reason to do so. ([Citation].)” (*Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

The State Bar urges, among other things, that respondent be suspended from the practice of law for three years, that execution of that period of suspension be stayed, and that respondent be actually suspended from the practice of law for a period of one year.<sup>7</sup> In support of its recommended discipline, the State Bar cites *Conroy v. State Bar* (1990) 51 Cal.3d 799 (*Conroy*) and *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697 (*Meyer*).

In *Conroy*, the respondent received a one-year stayed suspension, a one-year probation, and a 60-day actual suspension based upon his failure to timely take and pass the Professional Responsibility Examination (PRE) as he had been ordered to do as a condition of a private reproof. In aggravation, Conroy had one prior record of discipline, the underlying private reproof. Also in aggravation, Conroy failed to appreciate the seriousness of the charge; demonstrated that he failed to comprehend the importance of participating in disciplinary proceedings by failing to appear at trial; and failed to comprehend the gravity of his earlier misdeeds, showing a lack of remorse. The court gave some weight in mitigation to Conroy’s belated passage of the PRE, but concluded that “this single extenuating factor [was] substantially outweighed by numerous aggravating circumstances.” (*Conroy, supra*, 51 Cal.3d at p. 805.)

In *Meyer*, the attorney was suspended for two years, execution of the suspension was stayed, and he was placed on three years’ probation on conditions, including an actual suspension of 90 days for failing to file two quarterly reports and complete six hours of

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<sup>7</sup> The State Bar also recommended that respondent be placed on probation for three years subject to certain conditions. The State Bar’s recommendation for discipline, however, was made prior to respondent’s failure to appear at trial and prior to the entry of his default. The taking of respondent’s default effectively deferred any consideration by this court at the present time of the terms of any probation to impose. The appropriate time to consider imposing probation and its attendant conditions is when the attorney seeks relief from the actual suspension that may be imposed following his or her default in a disciplinary proceeding. (*In the Matter of Stansbury* (Review Dept. 2000) 4 Cal.State Bar Ct. Rptr. 103, 110.)

Mandatory Continuing Legal Education (MCLE) courses. In aggravation, Meyer had two prior records of discipline (both violations of private reprovls), engaged in multiple acts of wrongdoing, was indifferent toward rectification, and failed to cooperate in the proceedings by not filing a pretrial statement, failing to attend certain hearings and defaulting at time of trial. No mitigating circumstances were found.

Here, respondent's misconduct is far more extensive than the misconduct of the respondents in either *Conroy* or *Meyer*. He violated more conditions of his prior reprovl than either Conroy or Meyer. And, the nature of his violations is far more serious than either Conroy's or Meyer's. Respondent failed to comply with several of the most important conditions attached to his disciplinary reprovl, e.g., failing to comply with the treatment conditions recommended by the providers, thereby demonstrating that he has not even begun to take steps toward rehabilitation. (Cf., *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63, 78.)

Analogizing to cases addressing the violation of probation conditions, the court concludes that greater discipline is warranted for violations of conditions that are significantly related to the misconduct that led to the reprovl, particularly when respondent has not taken rehabilitative steps or where there is a serious concern about the need for public protection. (Cf., *In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 311.) As part of respondent's reprovl, he was ordered to take certain steps (comply with treatment conditions) to address the cause of the underlying misconduct, driving under the influence. But, respondent did not comply with the court's Order and did not take those steps. Thus, significant discipline is warranted.

Additionally, respondent's failure to participate in this disciplinary proceeding prior to the entry of his default is particularly troublesome to the court, as respondent was aware of

the pending disciplinary proceeding and was given ample opportunity to participate in this matter. Thus, to protect the public and preserve confidence in the profession, the court finds it appropriate in this matter to recommend discipline greater than that in *Meyer*. Accordingly, the court concludes that the appropriate discipline in this matter should include a one-year minimum suspension of respondent from the practice of law.

## **RECOMMENDED DISCIPLINE**

### **Suspension Recommended**

The court hereby recommends that respondent **Jason Robert Walsh** be suspended from the practice of law in California for two years, execution of that period of suspension be stayed, and that respondent be suspended from the practice of law for a minimum of one year. He is to remain suspended until he files and the State Bar Court grants a motion to terminate his suspension. (Rules Proc. of State Bar, rule 205.)

### **Conditional 1.4(c)(ii) Obligation**

If respondent remains suspended for two years or more, it is further recommended that respondent must provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), before his suspension will be terminated. (Rules Proc. of State Bar, rule 205(b).)

### **Future Probation**

It is also recommended that respondent be ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar as a condition for terminating his suspension. (Rules Proc. of State Bar, rule 205(g).)

### **MPRE**

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

within one year after the effective date of the discipline imposed herein or during the period of his suspension, whichever is longer, 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).)

**Rule 9.20**

The court also recommends that respondent 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.<sup>8</sup>

**Costs**

It is further 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: February \_\_\_\_\_, 2011

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DONALD F. MILES  
Judge of the State Bar Court

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<sup>8</sup> Respondent must file a rule 9.20(c) affidavit even if he has no clients on the date of the Supreme Court order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or a contempt, an attorney's failure to comply with rule 9.20 is also, *inter alia*, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d); see also *Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131; *In the Matter of Lynch* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287, 296.)