FILED AUGUST 8, 2011

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	**Case Nos.: 08-O-10007,** 10-O-07322, 10-O-07610
	)	
JAMES WILLIAM BRAVOS	)	**DECISION INCLUDING DISBARMENT RECOMMENDATION AND INVOLUNTARY INACTIVE ENROLLMENT ORDER**
	)	
Member No. 138097	)	
	)	
A Member of the State Bar.	)	

INTRODUCTION

In this default proceeding, Respondent James William Bravos (Respondent) is charged with twelve counts of misconduct involving three different client matters. The counts include allegations that Respondent willfully violated (1) rule 3-110(A) of the Rules of Professional Conduct[1] (failure to perform legal services with competence) [two counts]; (2) Business and Professions Code[2] section 6068(m) (failure to advise client of significant developments); (3) rule 3-700(D)(2) (failure to promptly return unearned fees) [three counts]; (4) rule 3-310 (representing multiple clients with potential conflict); (5) section 6103 (failure to obey court order); (6) rule 4-200(A) (illegal fee); (7) sections 6068(a), 6125, and 6126 (failure to support laws/unauthorized practice of law); (8) section 6106 (moral turpitude- knowing unauthorized

[1] Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.
[2] Unless otherwise noted, all future references to section(s) will be to the Business and Professions Code.

practice of law); and (9) rule 4-100(B)(3) (failure to accounts of client funds). In view of Respondent's misconduct and the aggravating factors, the court recommends, *inter alia*, that Respondent be disbarred from the practice of law.

PERTINENT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) in Case No. 08-O-10007 was filed in this matter by the State Bar of California on October 20, 2010. On December 1, 2010, an initial status conference was held in the matter, at which time it was scheduled to commence trial on February 15, 2011. On December 20, 2010, Respondent filed his response to that NDC.

On December 1, 2010, less than two months after the first NDC was filed, an NDC was filed in Case No. 10-O-07322 by the State Bar. A status conference was held in that case on December 16, 2010, resulting in the new case being consolidated with the earlier case and both cases being referred to a program judge for evaluation for possible inclusion in the Alternative Discipline Program (ADP).

Three weeks later, on December 22, 2010, yet another disciplinary action, Case No. 10-O-07610, was filed by the State Bar. This third matter was also included in the ADP evaluation process. Responses to the latter two NDCs were filed by Respondent on December 27, 2010 and January 24, 2011, respectively. On January 13, 2011, the program judge vacated the existing trial date in the cases.

On April 25, 2011, the program judge issued an order that Respondent was not eligible for the ADP because "Respondent failed to timely file a revised nexus statement and a discipline brief and refused to sign a proposed new Stipulation." The consolidated cases were then returned to the undersigned for standard proceedings.

On May 9, 2011, a status conference was held in the cases, at which time the cases were ordered to commence trial on July 26, 2011, with a pretrial conference to be held on July 18. Respondent was present at the status conference and was served with a copy of the subsequent trial-setting order. He subsequently appeared telephonically for the pretrial conference.

On July 26, 2011, the matters were called for trial as previously scheduled. Respondent, however, failed to appear. Larry DeSha, Deputy Trial Counsel for the State Bar, informed the court that Respondent had failed to respond to numerous communications since the pretrial conference. Respondent's default was then entered by the court as a result of Respondent's failure to appear at trial. (Rule 201, State Bar Rules of Procedure.[3]) A formal order to that effect was filed by this court on the same date. Exhibits, previously lodged by the State Bar with the court, were received in evidence. On August 5, 2011, the State Bar, after waiving a hearing, submitted a brief on culpability and records evidencing Respondent's record of two prior instances of discipline. That evidence was then received in evidence by the court and the case submitted for decision.

To date, no effort has been made by Respondent to seek relief from the default previously entered against him by this court.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on the allegations of the NDC, which are deemed to be admitted due to Respondent's default; on Respondent's responses to the NDC; and on the documentary evidence admitted into evidence by the court.

[3] Because the NDC's had been filed in 2010, the court determined that the default procedure here should be governed by the Rules of Procedure in effect in 2010.

Jurisdiction

Respondent was admitted to the practice of law in California on December 7, 1988, and has been a member of the State Bar at all relevant times.

Case No. 08-O-10007 [Hanenkrat Matter]

On or about September 13, 2006, Angela Hanenkrat (Angela) and Patrick Hanenkrat (Patrick) hired Respondent to represent them in their uncontested divorce. Patrick and Angela paid Respondent $750 as an advance fee for his legal services. At the time of this hiring, Respondent told Angela and Patrick that he would be able to represent both of them in the proceeding. Respondent never got a waiver from either Angela or Patrick for the potential conflict of interest between them.

Respondent delayed filing the Petition for Dissolution (Petition) until January 23, 2007. Respondent filed the Petition in San Diego Superior Court, case no. DS33342 TBT (divorce proceeding). Respondent filed the Petition listing Angela as the petitioner and himself as counsel for the petitioner.

On or about May 23, 2007, Respondent attempted to file a Response to the Petition on Patrick's behalf. On or about May 23, 2007, the court rejected the Response to the Petition because Respondent was impermissibly attempting to represent both the petitioner and the respondent in the same dissolution proceeding.

Between on or about September 13, 2006, and December 11, 2007, Respondent failed to properly serve the Petition on Patrick, initially filed the Petition in the wrong court, failed to appear for hearings, failed to notify Angela and/or Patrick of hearings in the matter, and had not completed the dissolution that he was hired to complete.

On September 11, 2007, the court "gave Atty Bravos an overview of the missing documents needed to proceed" and then issued an order stating that the case would be dismissed if the case had not been properly advanced by the next hearing, set for November 20, 2001.

On September 28, 2007, Respondent wrote a letter to the Hanenkrats, stating that he could not act as "attorney of record" for them both. He then stated that he would "assist Mr. Hanenkrat in pro per to move the matter forward." He did not inform his clients of the court's threat to dismiss the action.

On November 20, 2007, after the scheduled hearing, the court issued an order to show cause why Respondent should not be sanctioned in the amount of $1,500 for his failure to comply with the court's prior orders in the case. A hearing on the OSC was scheduled for December 11, 2007. Respondent was present at the time this OSC and hearing was set by the court.

Respondent did not appear for the hearing on the OSC on December 11, 2007. Nor did he file any papers in opposition to the OSC. At the hearing, the Superior Court concluded that Respondent had abandoned his client in the matter and he then removed Respondent as counsel for Angela in the case. The court also imposed a $1,500 sanction against Respondent, payable forthwith to the court, for Respondent's multiple instances of misconduct. The court also ordered Respondent to report the sanction order to the State Bar within five (5) days of the imposition of the court's order. Respondent did not report the sanctions order to the State Bar until a month later. To date, he has still not paid the $1,500 sanctions.

Count 1 – Rule 3-110(A) [Failure to Perform with Competence]

Rule 3-110(A) provides that an attorney "shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence."

By not filing the Petition for four months, failing to serve Patrick, missing hearings and failing to advance or complete Angela's divorce proceeding, Respondent intentionally, recklessly, and repeatedly failed to perform legal services with competence, in willful violation rule 3-110(A).

Count 2 –Section 6068(m) [Failure to Inform Client of Significant Developments]

Section 6068(m) of the Business and Professions Code obligates 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."

Respondent failed to inform Angela that the court had set several hearings in her divorce proceeding and that the court was threatening to dismiss the Petition because Respondent had failed to comply with court orders.

By not informing Angela that he had missed hearings and that the court was prepared to dismiss the petition, Respondent failed to keep a client reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services.

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

Rule 3-700(D)(2) provides: "A member whose employment has terminated shall: …(2) Promptly refund any part of a fee paid in advance that has not been earned."

Angela paid Respondent a total of $750 as an advance fee for his legal services. Respondent provided no legal services that were of any value to Angela. As a result Respondent did not earn any of the advance fee that Angela had paid him.

Respondent owed Angela a refund of her entire advance fee when he was removed from her divorce proceeding by the court on or about December 11, 2007. Respondent has not, to date, refunded any money to Angela.

By not refunding the advance fee that Angela paid him, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned. This failure by Respondent constituted a willful violation by him of his obligations under rule 3-700(D)(2).

Count 4 – Rule 3-310(C)(1) [Potential Conflict – Representing Multiple Clients]

Rule 3-310(C)(1) provides that an attorney shall not, without the informed written consent of each client, accept representation of more than one client in a matter in which the interests of the clients potentially conflict.

By agreeing to represent both the Angela and Patrick in their divorce proceeding, Respondent accepted representation of more than one client in a matter in which the interests of the clients potentially conflicted. Respondent never sought, or obtained, the informed written consent of Angela or Patrick to his attempted representation of them in their divorce proceeding, and failed to do so even after being informed by the court that it would not allow him to represent both parties because of the conflict. By this conduct, Respondent willfully violated Rules of Professional Conduct, rule 3-310(C)(1).

Count 5 – Section 6103 [Failure to Obey Court Order]

Section 6103 provides, in pertinent part: "A willful 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 ought in good faith to do or forbear, … constitute causes for disbarment or suspension."

As previously noted, on or about December 11, 2007, the Superior Court imposed $1,500 in sanctions against Respondent, payable forthwith to the court, and ordered him to report the sanction to the State Bar within 5 days. Respondent had notice of the court's order.

Respondent did not report the sanction to the State Bar until January 11, 2008, a month later. Respondent has still not paid the $1,500 sanction to the San Diego Superior Court.

By failing to report the $1,500 sanction to the State Bar within 5 days, as ordered by the court, Respondent willfully disobeyed or violated an order of the court requiring him to do or forbear an act connected with or in the course of Respondent's profession which he ought in good faith to do or forbear.[4] Such conduct by him constituted a willful violation by him of section 6103.

Case No. 10-O-07322 [Wiseman Matter]

On or about March 13, 2009, the Membership Billing Services of the California State Bar sent a letter entitled **"FINAL DELINQUENT NOTICE** (bold, capital, letters in the original) to Respondent, notifying Respondent that he had not paid his membership fees and informing him that he had sixty (60) days to pay his delinquent fees. The letter stated that, if Respondent failed to pay his fees within sixty days, he would be suspended from the practice of law effective July 1, 2009. Respondent received the letter but failed to pay his membership fees.

On or about June 11, 2009, the California Supreme Court entered an order, suspending Respondent from the practice of law, effective July 1, 2009, for nonpayment of membership fees. Respondent received service of the Order.

[4] For reasons unexplained, the NDC does not allege that Respondent's failure to pay the sanctions was also a willful violation of section 6103.

To date, Respondent has not paid his membership fees and remains suspended from the practice of law. At all times relevant to this matter, Respondent has been suspended from the practice of law in California.

On or about November 23, 2009, Phil Wiseman (Wiseman) contacted Respondent and asked for Respondent's assistance in a family law matter. Between on or about November 23, 2009, and November 30, 2009, Respondent and Wiseman spoke on the phone and discussed Wiseman's family law matter. Although Respondent was not eligible to practice law at the time, Respondent held himself out as an attorney and did not inform Wiseman that he was suspended from the practice of law. Instead, they agreed that Respondent would complete Wiseman's divorce and make the necessary court appearances.

On or about November 30, 2009, Respondent sent Wiseman a schedule of fees for his legal services. On or about December 30, 2009, Wiseman paid Respondent $750 as an advance fee for Respondent's legal services.

Between in or about November 2009 and March 2010 Respondent did not perform any legal work for Mr. Wiseman.

From in or about November 2009 through at least February 2010, Respondent held himself out as eligible to practice law by use of an email account and electronic signature that identified him as "James Wm. Bravos, Esq.", and by the use of a merchant account entitled "law office of james william bravos."

On or about March 12, 2010, Wiseman sent an e-mail to Respondent, terminating his employment and demanding that Respondent refund the advance fee that Wiseman had paid Respondent. Despite this demand, Respondent did not thereafter refund the advance fee.

Count 1 –Rule 4-200(A) [Illegal Fee]

Rule 4-200(A) provides, "A member shall not enter into an agreement for, charge, or collect an illegal or unconscionable fee." Fees charged and collected for legal services by a member who is not entitled to practice law are illegal under rule 4-200(A). (*Birbrower, Montalbano, Condon & Frank v. Superior Court* (1998) 17 Cal.4th 119, 136-137; *In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 904.)

By charging and collecting $750 as an advance fee for his legal services while he was suspended from the practice of law, Respondent entered into an agreement for, charging, or collecting an illegal fee, in willful violation of Rule 4-200(A).

Count 2 – Business and Professions Code Sections 6068(a), 6125, and 6126 [Failure to Support Laws/Unauthorized Practice of Law]

Section 6125 prohibits the practice of law in California without active State Bar membership, section 6126 prohibits an attorney from advertising or holding himself out as entitled to practice law without active membership, and section 6068, subdivision (a) requires an attorney to support state laws. (See *In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 506 [appropriate method of charging violations of §§ 6125 and 6126 is by charging violation of § 6068, subd. (a)].)

From in or about November 2009 through at least February 2010, Respondent led Wiseman to believe that he was entitled to practice law and he never told Mr. Wiseman that he was not entitled to practice law. By use of email and merchant accounts that identified Respondent as a lawyer, consulting with Wiseman about his family law matter, soliciting Wiseman's legal business, and agreeing to represent Wiseman in his family law matter, Respondent held himself out as entitled to practice law, when he was not an active member of the State Bar. Such conduct by Respondent constituted a willful violation by him of Business

and Professions Code, sections 6068(a), 6125 and 6126. It is not necessary that the State Bar prove that Respondent was aware of his ineligible status at the time of his actions in order for a willful violation of these sections to occur. (*In the Matter of Heiner* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 301, 318-319.)

Count 3 – Section 6106 [Moral Turpitude – Knowing Unlawful Practice of Law]

Moral turpitude has been defined as "an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." (*In re Fahey* (1973) 8 Cal.3d 842, 849, citing *In re Craig* (1938) 12 Cal.2d 93, 97; *Yakov v. Board of Medical Examiners* (1968) 68 Cal.2d 67, 73; *In re Boyd* (1957) 48 Cal.2d 69, 70.) The paramount purpose of the moral turpitude standard is not to punish practitioners but to protect the public, the courts and the profession against unsuitable practitioners. "To hold that an act of a practitioner constitutes moral turpitude is to characterize him as unsuitable to practice law." (*In re Higbie* (1972) 6 Cal.3d 562, 570.)

"In broad terms, any act contrary to honesty and good morals involves moral turpitude. [Citations.] Although an evil intent is not necessary for moral turpitude [citations], some level of guilty knowledge or at least gross negligence is required. [Citation.]" (*In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 384.)[5]

Respondent willfully violated Business and Professions Code, section 6106, by committing an act involving moral turpitude, dishonesty or corruption, as follows:

[5] Although the court concludes that Respondent violated section 6068(a), that violation arises from the same misconduct that provides the basis for finding culpability for violating section 6106. Accordingly, no additional weight is given the 6068(a) violation in determining the appropriate discipline. (*In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 595.)

Respondent knew, or was grossly negligent in not knowing, that he was not entitled to practice of law from on or about July l, 2009, through the present date and at all times relevant to this matter.

By actually practicing law, when he knew, or was grossly negligent in not knowing, that he was not entitled to practice law in California, Respondent committed an act involving moral turpitude, dishonesty or corruption.

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

To date, Respondent has not refunded any of the unearned $750 advance legal fee that Wiseman previously paid him, despite Wiseman's demand for such a refund. By not refunding the advance fee that Mr. Wiseman paid him, Respondent failed to refund promptly any part of a fee paid in advance that has not been earned, in willful violation of rule 3-700(D)(2).

Case No. 10-O-07610 [Buczak Matter]

In early 2006, Monica Buczak (Buczak) received correspondence from the Internal Revenue Service (IRS), informing her that she owed back taxes. On or about November 22, 2006, Buczak hired Respondent to negotiate her tax liability and to complete an offer in compromise on her behalf with the IRS. Buczak paid Respondent $1,500 as an advance fee for his legal services.

On or about December 4, 2006, Respondent sent a letter of representation to the IRS, indicating that he represented Buczak. On or about December 22, 2006, Respondent sent a second letter of representation to the IRS and asked it to contact him. On or about February 11, 2007, Respondent sent a third letter to the IRS, requesting a copy of Buczak's file and noting that the IRS had not yet contacted him. Respondent sent copies of each of these letters to Buczak.

On February 13, 2007, Buczak sent an email to Respondent, reminding him that a year had passed since she had first been contacted by the IRS and asking Respondent to begin negotiating with the IRS immediately. Respondent received the email message and agreed to begin negotiations with the IRS. Despite this assurance by Respondent to Buczak, he did not begin any negotiations with the IRS. In fact, after receiving Buczak's February 13, 2007 request, Respondent never took any additional steps on her behalf to secure an agreement with the IRS.

Between February 2007 and June 2008, Buczak made regular inquiries of Respondent regarding the status of his dealing with the IRS. When Respondent responded to these requests for a status report, he indicated that he either was working or would be working on her case.

On June 5, 2008, the IRS filed a federal; tax lien against Buczak. In doing so, it notified Buczak in writing that she was entitled to have a hearing regarding the lien and that she had until June 18, 2008, to respond to the notice of lien and to request a hearing. On June 9, 2008, Buczak told Respondent of the lien and notice of her need to request a hearing, and she faxed to Respondent that same day a copy of the notice that she had received.

On June 18, 2008, the deadline for Buczak to request a hearing with the IRS, Buczak contacted Respondent to remind him of that deadline and to get a status report. Respondent indicated that he had placed a call to the IRS, requesting an extension of the deadline to reply.

On or about July 3, 2008, Respondent sent Buczak a link to an IRS form for an offer in compromise and told her to fill out the form and then return it to the IRS. On July 9, 2008, Buczak asked Respondent for help in filling out the IRS form. Respondent did not help Buczak.

On or about July 25, 2008, Buczak sent Respondent an email demanding an accounting. She also asked Respondent to tell her when he had contacted the IRS regarding her case. Respondent received the email but never gave an accounting to Buczak.

In August 2009, Buczak contacted the IRS and learned that, except for the three letters described above, Respondent had not contacted the IRS regarding Buczak's tax liability and he had taken no steps to negotiate with the IRS on her behalf.

Count 1 – Rule 3-110(A) [Failure to Perform with Competence]

Rule 3-110(A) provides that an attorney "shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence." By failing to take any significant steps to negotiate Buczak's tax liability and resulting tax lien with the IRS after February 11, 2007, Respondent recklessly and repeatedly failed to perform legal services with competence, in willful violation of rule 3-100(A). (*Guzzetta v. State Bar, supra,* 43 Cal.3d at p. 979 [attorney failed to perform competently by taking no action towards purpose client retained him to accomplish]).)

Count 2 – Rule 4-100(B)(3) [Failure to Render Accounts of Client Funds]

Rule 4-100(B)(3) requires a member to "maintain complete records of all funds, securities, and other properties of a client coming into the possession of the member or law firm and render appropriate accounts to the client regarding them[.]" Buczak requested that Respondent provide her an accounting of the fees that had been advanced and he failed to respond to that request. That failure constituted a willful violation by him of rule 4-100(B)(3).

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

From the time Respondent was hired until the time he was fired, Respondent performed no work that was of any value to Buczak. Therefore, Respondent did not earn any of the advance fees that Buczak had paid him.

Although Buczak demanded that Respondent refund to her all unearned fees, to date, Respondent has not refunded any of the fees advanced by Buczak. This failure by him constitutes a willful violation by him of rule 3-700(D)(2).

Aggravating Circumstances

The State Bar bears the burden of proving 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).)[6] The court finds the following with regard to aggravating factors.

Prior Discipline

Respondent has been disciplined on two prior occasions. In June 2006, the Supreme Court issued an order disciplining him for violations of rule 3-110(A) [failure to perform legal services with competence], section 6068(o)(3) [failure to report sanctions], section 6103 [failure to obey court order], and rule 4-100(A) [commingling and misuse of client trust account]. He was suspended for two years, stayed, and placed on probation for four years. There was no actual suspension at that time. The conditions of his probation did, however, require Respondent to make restitution to a client.

In March 2008, the State Bar filed a motion to revoke Respondent's probation based on his failure to comply with many of the conditions of that probation, including his obligation to make restitution to a former client. After both a trial at the Hearing Department and an appeal to the Review Department, Respondent's probation was revoked and he was ordered to be actually suspended for one year and until he paid the previously-ordered restitution. He was also placed on two years of probation. That discipline was ordered by the Supreme Court and became effective on October 18, 2009.

[6] All further references to standard(s) or std. are to this source.

These two prior instances of discipline constitute serious aggravating factors. (Std. 1.2(b)(i).)

Multiple Acts of Misconduct

Respondent's multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).)

Significant Harm

Respondent's misconduct has caused serious harm to his clients. He failed to take steps to resolve Buczak's tax liability issues, even though a lien had been placed on her finances by the IRS. He continues to hold monies that should have been previously refunded to his clients.

Lack of Participation in Disciplinary Proceeding

Respondent's failure to participate in this disciplinary proceeding at the time this matter was called for trial is also an aggravating factor. (Std. 1.2(b)(vi).) Although Respondent appeared telephonically for the pretrial conference, he failed to appear for the scheduled trial. He then allowed his default to be taken in the action without any further participation by him. Such conduct by Respondent is an aggravating factor.

Mitigating Circumstances

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Standard 1.2(e).) No mitigating factors were shown by the evidence presented to this court.

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) In determining the appropriate level of discipline, the court looks first to the

standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Although the standards are not binding, they are to be afforded great weight because "they promote the consistent and uniform application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 703.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Standard 1.6(a) provides that, when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended sanction is to be the most severe of the different sanctions. In the present proceeding, the most severe sanction for Respondent's misconduct is found in standard 1.7(b), which provides: "If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate."

As the standard provides, the critical issue is whether compelling mitigating circumstances clearly predominate to warrant an exception to the severe penalty of disbarment. (See *Barnum v. State Bar* (1990) 52 Cal.3d 104, 113 [disbarment under std. 1.7(b) imposed where no compelling mitigation]; compare *Arm v. State Bar* (1990) 50 Cal.3d 763, 778-779, 781 [disbarment under std. 1.7(b) not imposed where compelling mitigation included lack of harm and no bad faith].) Yet even where compelling mitigation is absent, the Supreme Court has not always ordered disbarment. (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-508 [one-year actual suspension even though no compelling mitigation in std. 1.7(b) case].) Instead, the Supreme Court considers all relevant facts and circumstances of a case to determine the discipline to impose. (See *In re Young, supra,* 49 Cal.3d at p. 267, fn 11 [stds. not required to be strictly followed in every case].) Guided by these considerations, it is the responsibility of this court to examine the nature and chronology of prior discipline records in standard 1.7(b) cases, recognizing that "[m]erely declaring that an attorney has [two prior] impositions of discipline, without more analysis, may not adequately justify disbarment in every case." (*In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136.)

Ordinarily, disbarment is recommended if the current misconduct is a repetition of offenses for which the attorney has previously been disciplined. (*Morgan v. State Bar* (1990) 51 Cal.3d 598, 607.) Such repetition is a significant factor here. Respondent has been previously disciplined both for failing to perform legal services with competence and for failing to comply with a court order. That discipline took place in mid-2006, just prior to Respondent being hired by Monica Buczak and Angela Hanenkrat. The fact that he had just been disciplined for his prior misconduct and was still on probation did not have the desired effect of motivating Respondent to comply with his ethical obligations in representing those two new clients.

Disbarment is also appropriate where a previously disciplined member has demonstrated continued resistance or indifference to the disciplinary and/or rehabilitation efforts of this disciplinary process. Respondent is just such a member. His second discipline resulted from his indifference to the conditions of probation ordered in the first disciplinary effort directed at him. All of his misconduct in the three pending matters took place while he was on disciplinary probation, which included as a condition that he comply with his professional obligations. He has practiced law even when he was aware that he was not eligible to do so. He has continued to hold funds belonging to his clients, even after these proceedings were initiated. And now he has apparently elected to ignore the trial of the instant case, despite his obligation to appear for it.

It is this court's conclusion that a disbarment recommendation is appropriate under the standards and authorities applicable to this case and is necessary to protect the profession and the public. (See, e.g., *Morgan v. State Bar* (1990) 51 Cal.3d 598, 607 [pattern of misconduct, indifference to disciplinary orders and no compelling mitigation considered in applying std. 1.7(b)]; *Morales v. State Bar* (1988) 44 Cal.3d 1037, 1048 [lack of remorse and no compelling mitigation considered in applying std. 1.7(b)].)

RECOMMENDED DISCIPLINE

Disbarment

The court recommends that respondent **James William Bravos,** Member No. 138097, be disbarred from the practice of law in the State of California and that his name be stricken from the Roll of Attorneys of all persons admitted to practice in this state.

Restitution

It is further recommended that Respondent make restitution to the following former clients within 30 days following the effective date of the Supreme Court order in this matter or

within 30 days following the Client Security Fund payment, whichever is later (Rules Proc. of State Bar, rule 5.136): (1) to Angela Hanenkrat in the amount of $750.00, plus 10% interest per annum from September 13, 2006 (or to the Client Security Fund to the extent of any payment from the fund to Hanenkrat, plus interest and costs, in accordance with Business and Professions Code section 6140.5); (2) to Phil Wiseman in the amount of $750.00, plus 10% interest per annum from December 30, 2009 (or to the Client Security Fund to the extent of any payment from the fund to Wiseman, plus interest and costs, in accordance with Business and Professions Code section 6140.5); and (3) to Monica Buczak in the amount of $1,500.00, plus 10% interest per annum from November 22, 2006 (or to the Client Security Fund to the extent of any payment from the fund to Buczak, plus interest and costs, in accordance with Business and Professions Code section 6140.5).

Rule 9.20

The court further 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.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Respondent must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds, and such payment is enforceable as provided under Business and Professions Code section 6140.5.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), it is ordered that **James William Bravos,** Member No. 138097**,** be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(d)(1).)

Dated: August _____, 2011.

DONALD F. MILES
Judge of the State Bar Court