

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)	Case No. 08-PM-10939-RAP
)	
MARK PARDEE McCREDIE,)	ORDER RE MOTION TO REVOKE
)	PROBATION
Member No. 189962,)	
)	
<u>A Member of the State Bar.</u>)	

I. Introduction

In this probation revocation proceeding, respondent **Mark Pardee McCredie** is charged with violating his probation conditions imposed by the California Supreme Court. The Office of Probation of the State Bar of California (Office of Probation) seeks to revoke his probation, to impose upon respondent the entire period of suspension previously stayed, and to involuntarily enroll respondent as an inactive member of the State Bar.

Respondent opposes the motion, stating that his noncompliance with certain probation conditions resulted from his being “overwhelmed.” Respondent also urges that he “is less than someone intentionally or willfully ignoring the Court’s order...” and, thus, should be allowed to remain on probation without any period of actual suspension.

At the hearing in this matter, respondent represented himself. The Office of Probation was represented by Supervising Attorney Terrie Goldade

The court finds, by preponderance of the evidence, that respondent has violated his probation conditions and hereby grants the motion in part and denies it in part. The court recommends, among other things, that respondent’s probation be revoked; that the previous stayed one-year suspension be lifted, that he be actually suspended for six months; and that he be placed on probation for two years.

II. Pertinent Procedural History

On March 7, 2008, the Office of Probation filed and properly served a motion to revoke probation on respondent, under rules 60 and 563(a) of the Rules of Procedure of the State Bar of California.¹ On April 10, 2008, respondent filed his response, requested a hearing and the opportunity to cross-examine the person(s), who executed declaration(s) in support of the motion to revoke probation.

The hearing in this matter was held on May 15, 2008. At the hearing, the Office of Probation entered into evidence the declarations of Eddie Esqueda (Esqueda), whom respondent elected to cross-examine. Respondent entered into evidence, for limited purposes, the declarations of Richard La Perriere, Patricia Tierney, and Stanley Ichanberry, none of whom appeared for the hearing. The Office of Probation, however, stipulated to the declarations being admitted into evidence for limited purposes. At the close of the hearing the court made a tentative finding of culpability and took the matter under submission on May 15, 2008.

III. Findings of Fact and Conclusions of Law

The following findings of fact are based on declarations, testimony, and documentary evidence submitted at the hearing.

A. Jurisdiction

Respondent was admitted to the practice of law in California on October 28, 1997, and has since been a member of the State Bar of California.

B. Probation Conditions of Supreme Court Case No. S142425

On June 13, 2006, in Supreme Court case No. S142425, the California Supreme Court ordered that:

1. Respondent be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for three years subject to the conditions of probation as recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed March 3, 2006 (State Bar Court case Nos. 00-C-13377; 03-O-04721 (Cons.)); and

¹References to rules are to the Rules of Procedure of the State Bar.

2. Respondent comply with certain probation conditions, including, but not limited to:
 - a. 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, whether he complied with the Rules of Professional Conduct of the State Bar of California, the State Bar Act, and all the conditions of probation during the preceding calendar quarter (quarterly probation reports);
 - b. Provide a written authorization to all alcohol, drug, or mental health recovery or treatment providers, including drug testing facilities, to disclose records or information about him to the Office of Probation. Withing thirty days of the effective date of Supreme Court order, respondent was to provide satisfactory proof to the Office of Probation that he had provided his consent to release treatment and recovery information;
 - c. Deliver a copy of the March 3, 2006 Stipulation Re Facts, Conclusions of Law and Disposition (stipulation), which respondent signed on February 24, 2006, to all recovery or treatment providers who provide him with services and within thirty days of the effective date of the Supreme Court Order, provide satisfactory proof to the Office of Probation that he had delivered a copy of the stipulation to said treatment providers;
 - d. Attend at least four meetings per week of any acceptable sobriety maintenance program (e.g. Alcoholics Anonymous, Narcotics Anonymous, etc.) and, of the aforesaid meetings, at least three meetings each calendar month were required to be meetings of the Other Bar. For each calendar month during his probation, on or before the tenth day of the following month, respondent was required to provide the Office of Probation satisfactory proof of attendance at the afore-described meetings
 - e. Provide the Office of Probation satisfactory proof of attendance at a session of State Bar Ethics School and passage of the test given at the end of that session within one year from the effective date of his discipline.

Notice of the July 13 2006 Supreme Court Order was properly served upon respondent in the manner prescribed by California Rules of Court, rule 8.532(a), at respondent's official address

in accordance with Business and Professions Code section 6002.1.²

C. Findings of Fact

1. Quarterly Probation Reports

Respondent was required under his probation to submit quarterly reports to the Office of Probation in a timely manner. However, he did not do so.

The evidence introduced by the State Bar demonstrates that numerous of respondent's quarterly reports were filed late, as follows:

<u>Due</u>	<u>Filed</u>
October 10, 2006	October 16, 2006
January 10, 2007	January 23, 2007
April 10, 2007	April 12, 2007
July 10, 2007	July 19, 2007
October 10, 2007	November 5, 2007
January 10, 2008	January 18, 2008

Respondent testified that he took seriously his obligations under the terms of his probation. Although respondent may believe he undertook his probation obligations in a serious manner, the evidence shows otherwise. The timely filing of quarterly reports with the Office of Probation is an important indicator of a respondent's commitment to rehabilitation.

2. Consent to Release Treatment and Recovery Information

As a condition of probation, respondent was ordered to provide written authorization to all of his alcohol, drug, or mental health recovery or treatment providers, including drug testing facilities, to disclose records or information about him to the Office of Probation. Within thirty days of the effective date of the Supreme Court's Order in case No. 142425, respondent was to provide satisfactory proof to the Office of Probation that he had provided said written authorization to his treatment providers. Respondent, however, did not provide satisfactory proof to the Office of Probation of his written consent to release treatment and recovery information.

²References to sections are to the Business and Professions Code.

3. Provide Stipulation to All Recovery or Treatment Providers

As a condition of probation, respondent was ordered to deliver a copy of the March 3, 2006 stipulation to all of his recovery or treatment providers and within thirty days of the effective date of the Supreme Court's Order in case No. 142425, to provide satisfactory proof to the Office of Probation that he had delivered a copy of the stipulation as required. Respondent did not timely comply with this term of probation, nor did respondent file a motion with the court to amend this term to probation.

4. Attendance at Sobriety Maintenance Programs

As a condition of probation, respondent was ordered to attend at least four meetings per week of any acceptable sobriety maintenance program (e.g. Alcoholics Anonymous, Narcotics Anonymous, etc.). Of those sobriety maintenance meetings, at least three meetings in each calendar month were required to be meetings of the Other Bar. For each calendar month during his probation, on or before the tenth day of the following month, respondent was required to provide to the Office of Probation satisfactory proof of attendance at the above-described meetings.

The evidence shows that although respondent submitted to the Office of Probation proof of meetings that he had attended, none of the meetings were designated as meetings of the Other Bar, as required. The declaration of Patricia Tierney, submitted into evidence by respondent, indicates that Tierney could confirm only that respondent "regularly" attended meetings of the Other Bar. However, the number of meetings she could confirm and when they occurred is left open to speculation.

5. State Bar Ethics School

As a condition of probation, respondent was ordered to provide to the Office of Probation, within one year of the effective date of his discipline, i.e., by July 13, 2007, satisfactory proof of attendance at a session of State Bar Ethics School and passage of the test given at the end of that session. Respondent did not comply with the order. Rather, he provided proof that he attended State Bar Ethics School in March 2008, and that as of the time of the hearing in the matter he was awaiting written notification of whether he passed the test given at the end of that session. Respondent's attendance at Ethics School falls well outside of the time period in which he was required to attend.

D. Conclusions of Law

Section 6093, subdivision (b), provides that violation of a probation condition constitutes cause for revocation of any probation then pending, and may constitute cause for discipline. Section 6093, subdivision (c), provides that the standard of proof is the preponderance of the evidence. Bad faith is not a requirement for a finding of culpability in a probation violation matter; “instead, a ‘general purpose or willingness’ to commit an act or permit an omission is sufficient.” (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

Respondent violated his probation conditions by failing to do the following:

1. Timely submit numerous quarterly reports (October 10, 2006, January 10, 2007, April 10, 2007, July 10 2007, October 10, 2007 and January 10, 2008);
2. Provide satisfactory proof to the Office of Probation that he had given written authorization to all alcohol, drug or mental health recovery or treatment providers, including drug testing facilities to disclose records or information about him to the Office of Probation;
3. Provide satisfactory proof to the Office of Probation within thirty days of the effective date of the Supreme Court order, i.e., by August 12, 2006, that he had delivered a copy of the March 3, 2006 Stipulation Re Facts, Conclusions of Law and Disposition to all recovery or treatment providers, who provide him with services;
4. Provide the Office of Probation with satisfactory proof that he attended at least three meetings of the Other Bar in each calendar month of his probation on or before the tenth day of the following month ; and
5. Provide the Office of Probation with satisfactory proof of attendance at a session of State Bar Ethics School and passage of the test given at the end of that session within one year of the effective date of his discipline, i.e., by July 13, 2007.

Therefore, the State Bar has demonstrated by a preponderance of the evidence that respondent willfully violated the probation conditions ordered by the Supreme Court in its June 13, 2006 order.

As a result, the revocation of respondent’s probation in California Supreme Court case No. S142425 is warranted.

IV. Mitigating and Aggravating Circumstances

The parties bear the burden of proving mitigating and aggravating circumstances by clear and convincing evidence. (Rules Proc. of state Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)³

A. Mitigation

Respondent did not produce any mitigation evidence. Respondent claimed that he was suffering from financial difficulties and did not timely attend State Bar Ethics School due to this problem. Respondent's claim of financial difficulties was not supported by the evidence and thus is not considered in mitigation. (Std. 1.2(e)(iv).) In fact, respondent did not offer any evidence in support of his claim.

B. Aggravation

In aggravation, respondent has a prior record of discipline. (Std. 1.2(b)(i).) Effective July 13, 2006, respondent, upon stipulation, was ordered suspended for one year, stayed, and placed on probation for three years for a misdemeanor violation of Penal Code section 368(c) and a misdemeanor violation of Health & Safety Code section 11357(b); and a violation of rule 3-700(D)(2), Rules of Professional Conduct. The facts and circumstances surrounding respondent's criminal offenses, which involved a misdemeanor crime against an elder or dependent adult and misdemeanor possession of marijuana 28.5 grams or less, constituted "other misconduct warranting discipline." Respondent was also disciplined for failure to return an unearned fee of \$300 in a separate client matter. (Supreme Court case No. S142425, (State Bar Court case Nos. 00-C-13377; 03-O-04721 (Cons.).)

Respondent committed multiple acts of wrongdoing, including failing to: (1) timely submit quarterly probation reports due October 10, 2006, January 10, 2007, April 10, 2007, July 10 2007, October 10, 2007 and January 10, 2008; (2) provide satisfactory proof to the Office of Probation that he provided authorization to recovery or treatment providers to disclose records or information about him to the Office of Probation; (3) timely provide satisfactory proof to the Office of Probation of

³All further references to standards are to this source.

delivering a copy of the March 3, 2006 Stipulation Re Facts, Conclusions of Law and Disposition to all of his treatment providers; (4) provide satisfactory proof to the Office of Probation that he attended three meetings of the Other Bar in each calendar month of his probation; and (5) attend the State Bar Ethics School and pass the test given by the Ethics School within one year of the effective date of his discipline, i.e., by July 13, 2007. (Std. 1.2(b)(ii).)

V. Discussion

Public protection and attorney rehabilitation are the primary goals of disciplinary probation. (*In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445, 452.)

“[T]here has been a wide range of discipline imposed for probation violations from merely extending probation. . .to a revocation of the full amount of the stayed suspension and imposition of the amount as an actual suspension.” (*In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.)

In determining the level of discipline to be imposed, the court must consider the “total length of stayed suspension which could be imposed as an actual suspension and the total amount of actual suspension earlier imposed as a condition of the discipline at the time probation was granted.” (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) The extent of the discipline to be recommended is dependent, in part, on the nature of the probation violation and its relationship to respondent’s prior misconduct. (*Ibid.*)

Here, respondent’s prior misconduct involved two criminal convictions and a failure to promptly refund an unearned fee. In the instant matter, the primary probation violations found were his failure to comply with the rehabilitation conditions, i.e., (1) submitting late quarterly reports to the Office of Probation; (2) failing to provide satisfactory proof to the Office of Probation that he had provided his consent to release treatment and recovery information; (3) failing to timely provide satisfactory proof to the Office of Probation that he had delivered a copy of his stipulation to treatment providers; (4) failing to provide proof to the Office of Probation that he had attended required meetings at the Other Bar; and (5) failing to provide the Office of Probation with proof of attendance at State Bar Ethics School and proof of passage of the test given at the end of the session within one year of the effective date of the Supreme Court Order in case No. S142425.

“[A] probation ‘reporting requirement permits the State Bar to monitor [an attorney probationer’s] compliance with professional standards.’” (*In the Matter of Weiner* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 759, 763, citing *Ritter v. State Bar* (1985) 40 Cal.3d 595, 605.) In addition, “an attorney probationer’s filing of quarterly probation reports is an important step towards the attorney’s rehabilitation.” (*In the Matter of Weiner*, *supra*, 3 Cal. State Bar Ct. Rptr. at p. 763.) Thus, respondent’s failure to timely file quarterly reports warrants discipline.

The State Bar contends that respondent’s probation should be revoked because his probation violations demonstrate a lack of concern about professional responsibilities and that the full amount of stayed suspension of one year should be imposed for respondent’s rehabilitation.

Respondent, on the other hand, argues that he has been “overwhelmed” by single-handedly running his law practice, while meeting the conditions and financial costs (e.g., the cost of Ethics School) of his probation. He (erroneously) believes he “is less than someone intentionally or willfully ignoring the Court’s order...,” and thus should be allowed to remain on probation without any period of actual suspension.

Respondent’s 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. While he may be facing financial challenges, his earning ability was not the cause of his tardiness to file the quarterly reports or provide proof to the Office of Probation that he had complied with probation conditions. 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* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. at p. 574.)

The court finds guidance in *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567; *In the Matter of Laden* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678; and *In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445.

In *Gorman*, the attorney was actually suspended for 30 days with a two-year probation and a two-year stayed suspension after he violated two probation conditions to timely complete restitution and ethics school. His cooperation, good faith efforts to pay restitution, and emotional

difficulties were considered in mitigation. But these factors did not outweigh the 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. He had one prior record of discipline.

In *Laden*, the attorney was actually suspended for 90 days and until he made restitution for his numerous untimely restitution payments to a single client and several delinquent quarterly probation reports. The attorney had four prior records of discipline, but this was the third matter involving his failure to make timely restitution to the same client. But for his strong mitigating evidence, including financial hardship, good faith efforts, cooperation with the client, recognition of the seriousness of his wrongdoing, and community service, the Review Department would have recommended more than a 90-day actual suspension.

In *Howard*, the attorney was actually suspended for one year because he failed to submit two quarterly probation reports, to timely deliver financial records to a former client's accountant, and defaulted in the disciplinary proceeding. The attorney's lack of cooperation with the State Bar was a serious concern.

Respondent's misconduct is less serious than that of *Howard* in that he has participated in these proceedings and did not completely abandon his probationary duties. Respondent filed his quarterly reports, albeit late. He also completed several of his probation conditions, as well as satisfied his MPRE requirement (which was also late).

The severity of respondent's violations, however, is more than that of *Gorman* and *Laden*. Respondent failed to do the following: (1) timely submit quarterly reports; (2) provide satisfactory proof to the Office of Probation that he had provided his written consent to release treatment and recovery information to his treatment providers within 30 days of the effective date of the Supreme Court Order; (3) provide proof to the Office of Probation that he had delivered a copy of the March 3, 2006 Stipulation re Facts, Conclusions of Law and Disposition to the Office of Probation within 30 days of the effective date of the Supreme Court Order; (4) comply with the reporting requirements

regarding attendance at sobriety maintenance programs, i.e., specifically provide proof to the Office of Probation that he had attended required meetings of the Other Bar; and (5) attend Ethics School and provide proof of passage of the test to the Office of Probation by July 13, 2007. In *Gorman*, the attorney had timely passed the professional responsibility examination and timely made quarterly probation reports. However, he completed his ethics school requirement about six weeks late and made restitution payments nine months late. Significantly, the attorney in *Gorman* presented strong mitigating evidence to the court, including cooperation, good faith efforts to pay restitution, and emotional difficulties. In the instant matter, respondent offered no evidence in mitigation for his failure to comply with his probation requirements. In *Laden*, but for the attorney's strong mitigating evidence, including financial hardship, good faith efforts, cooperation with the client, recognition of the seriousness of his wrongdoing, and community service, the Review Department would have recommended more than a 90-day actual suspension.

Although significant discipline is warranted for respondent's probation violations, the court does not believe that imposing the entire period of stayed suspension is necessary to achieve the goals of attorney disciplinary probation. The Office of Probation's recommendation that respondent's probation be revoked without further conditions is inadequate to impress upon him the importance of strict compliance with probation conditions as an integral step toward rehabilitation; and the recommendation that he actually be suspended for one year, the entire original period of stayed suspension, is excessive and not necessary.

The court finds good cause for granting the Office of Probation's motion to revoke respondent's probation and concludes that part of the period of the stayed suspension be imposed. Balancing all relevant facts and circumstances to reach the appropriate recommendation of degree of discipline, the court finds that a six-month actual suspension with a two-year probation would be sufficient to achieve the goals of attorney disciplinary probation.

VI. Recommendation

Accordingly, the court recommends as follows:

A. Discipline

The court recommends that the probation of respondent **Mark Pardee McCredie**, previously

ordered in Supreme Court case No. S142425 (State Bar case Nos. 00-C-13377; 03-O-04721 (Cons.)) be revoked; that the previous stay of execution be lifted; that respondent be actually suspended from the practice of law for six months, that he be suspended for one year, that execution of such suspension be stayed; and that he be placed on probation for two years on the following conditions:

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

provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during that period.

During the last 20 days of this probation, respondent must submit a final report covering any period of probation remaining after and not covered by the last quarterly report required under this probation condition. In this final report, respondent must certify to the matters set forth in subparagraph (b) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California;

4. Subject to the proper or good faith assertion of any applicable privilege, respondent must fully, promptly, and truthfully answer any inquiries of the State Bar's Office of Probation that are directed to respondent, whether orally or in writing, relating to whether respondent is complying or has complied with the conditions of his probation;

5. Substance Abuse Conditions:

The following conditions are derived from recommendations of an expert re issues of alcohol and drugs, after his evaluation of the respondent.

a. Abstinence:

For the entire period of probation set forth herein, respondent must abstain from the use of any alcoholic beverages, and must not consume or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

b. Reporting Abstinence:

Respondent must report his compliance with this condition by statement under penalty of perjury in each written quarterly report to the Office of Probation required pursuant to this order.

c. Abstinence-based Support Group Meetings:

During the period of this probation, respondent must attend:

-- at least four (4) meetings per week of any acceptable sobriety maintenance program;

-- of these meetings, at least three (3) meetings in each calendar month must be meetings of the Other Bar.

Respondent has been advised that he may choose one of any acceptable sobriety maintenance program, including any self-help maintenance program which includes (i) a subculture to support recovery (i.e., meetings); and (ii) a process of personal development that does not have financial barriers. Appropriate 12-step groups are acceptable. Examples of acceptable programs include, without limitation, Alcoholics Anonymous (“AA”), the Other Bar, Narcotics Anonymous (“NA”), Rational Recovery (“RR”), Self Management and Recovery Training (“SMART”), Secular Organizations for Sobriety (“SOS”); and LifeRing.

d. Reporting of Meeting Attendance to the Probation Unit:

For each calendar month during the probation period, on or before the tenth (10th) day of the following month, respondent must provide to the Office of Probation satisfactory proof of attendance at the above-described meetings.

Proof of attendance must include submission of a writing which clearly provides, for each meeting he attends: (a) the date and time of the meeting; (b) name of the meeting; (c) the location of the meeting; and, (d) which bears the initials and/or signature of the secretary of the meeting, verifying respondent’s attendance at that meeting.

e. Consent for Release of Treatment and Recovery Information:

Respondent must provide a written authorization to all alcohol, drug, or mental health recovery or treatment providers, including drug testing facilities, to disclose records or information about him to the Office of Probation. This authorization must remain in full force and effect for the entire period of probation set forth herein.

f. Copy of this Order to all Treatment Providers:

Respondent must deliver a copy of this order to all recovery or treatment providers who provide to him the above-described services.

g. Reporting Consent and Delivery of Order:

Within thirty (30) days of the effective date of this order, respondent must provide proof satisfactory to the Office of Probation that he has provided his consent to release treatment and recovery information and his delivery of a copy of this order to treatment providers.

6. Unless respondent previously completed the State Bar Ethics School and passage of the test given at the end of that session within the prior two years, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School within one year of the effective date of discipline herein, given periodically by the State Bar at either 180 Howard Street, San Francisco, California 94105-1639 or 1149 South Hill Street, Los Angeles, California 90015-2299, and passage of the test given at the end of that session. (Rules Proc. of State Bar, rule 290.) Arrangements to attend Ethics School must be made in advance by calling (213) 765-1287, and paying the required fee. This requirement is separate from any Minimum Continuing Legal Education Requirement (MCLE), and respondent will not receive MCLE credit for attending Ethics School (Rules Proc. of State Bar, rule 3201):
7. Respondent's probation will commence on the effective date of the Supreme Court order imposing discipline in this matter; and
8. At the expiration of the period of this probation, if respondent has complied with all the terms of probation, the order of the Supreme Court suspending respondent from the practice of law for one year that is stayed will be satisfied and that suspension will be terminated.

B. Multistate Professional Responsibility Examination

It is not recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination since he was previously ordered to do so in S142425. Failure to pass the MPRE within the specified time results in actual suspension by the Review Department, without further hearing, until passage.

C. California Rules of Court, Rule 9.20

It is also recommended that the Supreme Court order respondent to comply with rule 9.20, paragraphs (a) and (c), of the California Rules of Court, within 30 and 40 days, respectively, of the effective date of its order imposing discipline in this matter. Willful failure to comply with the provisions of rule 9.20 of the California Rules of Court may result in revocation of probation suspension, disbarment, denial of reinstatement, conviction of contempt, or criminal conviction.⁴

VII. Costs

The court recommends 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.

VIII. Order of Involuntary Inactive Enrollment

Respondent is ordered to be involuntarily enrolled inactive under Business and Professions Code section 6007, subdivision (d)(1).⁵ The inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: June 9, 2008

RICHARD A. PLATEL
Judge of the State Bar Court

⁴Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

⁵Any period of involuntary inactive enrollment will be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)