

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO

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| In the Matter of |) | Case No. 08-PM-11584-PEM |
| |) | |
| CHRISTINE GARCIA, |) | ORDER GRANTING MOTION TO |
| |) | REVOKE PROBATION AND DENYING |
| Member No. 209701, |) | MOTION FOR INVOLUNTARY |
| |) | INACTIVE ENROLLMENT |
| A Member of the State Bar. |) | |
| _____ |) | |

I. Introduction

In this probation revocation proceeding, respondent **Christine Garcia** (respondent) is charged with violating her probation conditions imposed by the California Supreme Court. The Office of Probation of the State Bar of California (Office of Probation) seeks to revoke her probation and impose upon respondent the entire period of suspension previously stayed by Supreme Court Order No. S145631 (State Bar Court Case No. 02-O-15594; 04-O-11385; 06-O-10706), filed on October 6, 2006. The Office of Probation also requests that respondent be ordered to comply with rule 9.20, California Rules of Court, and that respondent be placed on involuntary inactive enrollment pursuant to Business and Professions Code section 6007, subdivision (d).¹

The court finds, by preponderance of the evidence, that respondent has violated the terms and conditions of her disciplinary probation in the above-referenced case. As a result, this court

¹ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

grants the Office of Probation's motion to revoke respondent's probation. However, the court denies the Office of Probation's motion to involuntarily enroll respondent as an inactive member of the State Bar pursuant to section 6007, subdivision (d). The court hereby recommends that respondent's probation be revoked, that the previous stay of execution of the suspension be lifted; that respondent be suspended from the practice of law for one year; that execution of the suspension be stayed; and that she be placed on probation for two years on the conditions specified *post*.

II. Pertinent Procedural History

On April 14, 2008, the Office of Probation properly served a motion to revoke probation on respondent. On April 30, 2008 respondent filed her response.

On May 12, 2008, respondent filed an Opposition to Motion to Revoke Probation and a Request to Modify the Restitution. Respondent also filed a Declaration in Support of her Opposition to Motion to Revoke Probation. On June 2, 2008, respondent's former counsel, Jonathan Arons, filed a Declaration in Support of Opposition to Probation Revocation. On June 19, 2008, the Office of Probation filed an Objection to Declaration of Christine Garcia In Support of Opposition to Revoke Probation of Christine Garcia and a Request for Judicial Notice of the following pursuant to Evidence Code section 452: (1) respondent's Motion for Modification of Probation (restitution) in State Bar Court Case No. 02-O-15594; 04-O-11385; 06-O-10706 (S145631) served January 10, 2008; (2) the Office of Probation's Opposition to Respondent's Motion of Probation (restitution) with declarations in State Bar Court Case No. 02-O-15594; 04-O-11385; 06-O-10706 (S145631) filed January 30, 2008; (3) Order re Respondent's Motion for Modification of Probation in State Bar Court Case No. 02-O-15594; 04-O-11385; 06-O-10706 filed February 11, 2008; and History of California Minimum Wage chart from California's Department of Industrial Relations showing minimum wage as of January 1, 2008 to be \$8 per

hour.²

On July 15, 2008, respondent filed a Motion for Modification and a Request for Stay of Suspension. On July 18, 2008, respondent filed an Amended Motion for Modification of Probation; and Request for No Suspension as well as a Request to Seal All Supportive Declarations and Amended Motion as Confidential. On August 1, 2008, the Office of Probation filed an opposition to respondent's amended motion for modification of probation, as well as an opposition to the sealing of all declarations.

On August 15, 2008, respondent filed an amended reply declaration of Erica Smith in support of her amended motion for modification. On August 26, 2008, the parties filed a Partial Stipulation as to Undisputed Facts and a Stipulation Regarding Proposed Exhibits (stipulation).

A hearing was held on August 26, 2008, and the court took the matter under submission on that same day.

III. Findings of Fact and Conclusions of Law

The following findings of fact are based on the parties' declarations, stipulation, testimony at the hearing, and the documentary evidence attached to the parties' briefs.

A. Jurisdiction

Respondent was admitted to the practice of law in California on December 1, 2000, and has since been a member of the State Bar of California.

B. Discipline Leading to Respondent's Underlying Disciplinary Probation

Respondent's current probation rests upon her written stipulation as to facts and discipline in State Bar Court Case No. 02-O-15594; 04-O-11385; 06-O-10706.³ In that stipulation respondent admitted to misconduct in three separate instances. Specifically, in State Bar Court

² Said motion was subsequently granted.

³ At the probation revocation hearing the stipulation in Case No. 02-O-15594; 04-O-11385; 06-O-10706 was put into evidence.

Case No. 02-O-15594, respondent stipulated that she willfully violated section 6106 by issuing checks against insufficient funds and that she violated rule 4-100(A) of the Rules of Professional Conduct⁴ by depositing personal funds into her client trust account. In State Bar Court Case No. 04-O-11385, respondent stipulated that she maintained an unjust action, in violation of section 6068, subdivision (c), failed to report a sanction judgment against her in violation of section 6068, subdivision (o)(3), failed to provide a written disclosure of financial and professional conflicts in violation of rule 3-310(B)(4), committed an act of dishonesty in violation section 6106, and failed to perform competently in violation of rule 3-110(A). In State Bar Case No. 06-O-10706, respondent stipulated that she failed to inform a client of a significant development in violation of section 6068, subdivision (m), and that she failed to perform competently in violation of rule 3-110(A).

As a result of respondent's written stipulation on October 6, 2006, in Supreme Court case No. S145631, effective November 5, 2006, the California Supreme Court ordered that:

1. Respondent be suspended from the practice of law for one year and until restitution, that execution of the suspension be stayed, and that she be placed on probation for two years subject to the conditions of probation, including 120 days actual suspension, recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on June 22, 2006, as modified by its order filed July 19, 2006;
2. Respondent comply with certain probation conditions, including, but not limited to:
 - a. Contacting the Office of Probation within 30 days of the effective date of discipline and scheduling a meeting with her assigned probation deputy to discuss the terms and conditions of respondent's probation;

⁴ References to rule(s) are to the Rules of Professional Conduct, unless noted otherwise.

- b. Submitting quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the probationary period;
- c. Attending the State Bar Ethics School and taking and passing the test given at the end of such session within one year of the effective date of the Supreme Court Order;
- d. Providing proof of passage of the Multistate Professional Responsibility Examination (MPRE) within one year of the Supreme Court Order;
- e. Obtaining and showing proof of psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of four times per month throughout the period of probation; and
- f. Making restitution to Lissa Jacobson in the amount of \$100 per month during the first year of her probation. During the second year of the probation period, respondent must pay restitution in the amount of \$500 per month unless and until the State Bar Court grants a motion to modify this condition of probation by reducing or increasing respondent's monthly restitution payments to Ms. Jacobson based on evidence of a change of circumstances that could not be reasonably foreseen at the time of the stipulation.

Notice of the Supreme Court's October 6, 2006 Order was properly served on respondent at respondent's official membership records address.

C. Stipulation of Facts at Hearing

The parties stipulated to the following facts:

On October 6, 2006, the Supreme Court of California filed an order, No. S145631, in relation to prior disciplinary State Bar Court Case No. 02-0-15594, 04-0-11385, and 06-0-10706. The Supreme Court imposed upon respondent, among other things, a stayed suspension of one year and until she pays restitution to Ms. Jacobson. Conditions of probation were imposed upon respondent as a result of the Supreme Court's order.

As a condition of probation, respondent was ordered to comply with the State Bar Act and the Rules of Professional Conduct and to report such compliance on a quarterly basis each January 10, April 10, July 10, and October 10 (quarterly reports). Respondent has timely filed her quarterly reports.

As a condition of probation, respondent was ordered to obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of four times per month and furnish evidence to the Office of Probation that respondent was so complying with each quarterly report. Help/treatment was to commence immediately. With each quarterly report, respondent submitted a declaration signed by Erica Smith. Each declaration was prepared by respondent for Ms. Smith's signature. The first declaration stated "I am the counselor for Christine Garcia through to Center for Living Arts Counseling Center." Five of the six declarations stated "I presently treat Ms. Garcia for therapy under the supervision of Armand Volkas MFT #28789," those five declarations also stated that Ms. Smith did not believe that respondent's therapy should be imposed as a probation condition. The first declaration stated "in my opinion her required probation condition to visit me weekly is unnecessary." None of the declarations identified Ms. Smith as a Marriage and Family Therapist Intern, or MFTI.

As a condition of probation, respondent was ordered to pay Ms. Jacobson, within 30 days from the effective date of her discipline, payments of \$100 per month during the first year of her

probation unless respondent obtained bankruptcy relief from some or all of her financial obligations in which case her monthly restitution payments would increase from \$100 to \$500. During the second year of her probation period, respondent was to pay Ms. Jacobson \$500 per month unless and until the State Bar Court granted a motion to modify this condition of probation by reducing or increasing her monthly payments to Ms. Jacobson based on evidence of change of circumstances regarding respondent's finances which could not be reasonably foreseen at the time the stipulation was entered into. The Financial Condition further read that “for the purposes of any such future motion, the State Bar agrees that such a modification would be ‘minor’ as that term is used in subdivision (c) of rule 951, California Rules of Court.” Respondent was to include in each quarterly report satisfactory evidence of all restitution payments made during that reporting period.

On January 11, 2007, the Office of Probation filed proof of a \$100 payment signed on January 7, 2007 by Ms. Jacobson. On February 7, 2007, the Office of Probation filed proof of a \$100 payment for December 2006 and a \$100 payment for February 2007 signed on February 3, 2007 by Ms. Jacobson. On March 15, 2007, the Office of Probation filed proof of the March 2007 \$100 payment signed March 8, 2007 by Ms. Jacobson. On April 11, 2007, the Office of Probation filed proof of the April 2007 \$100 payment signed April 8, 2007 by Ms. Jacobson. On May 23, 2007, the Office of Probation filed proof of the May 2007 \$100 payment undated by Ms. Jacobson. On June 11, 2007, the Office of Probation filed proof of the June 2007 \$100 payment signed June 6, 2007 by Ms. Jacobson. On July 19, 2007, the Office of Probation filed proof of a \$100 payment for July 2007 undated by Ms. Jacobson. On August 9, 2007, the Office of Probation filed proof of a \$100 payment for August 2007 undated by Ms. Jacobson. On September 10, 2007, the Office of Probation filed proof of a \$100 payment for September 2007 undated by Ms. Jacobson. On October 12, 2007, the Office of Probation filed proof of a \$100

payment for October 2007 undated by Ms. Jacobson. On November 14, 2007, the Office of Probation filed proof of a \$100 payment for November dated November 6, 2007 by Ms. Jacobson.

In December 2007, respondent was to begin making restitution payments of \$500 each month. On November 5, 2007, January 10, 2008, and April 10, 2008, respondent communicated to the Office of Probation her claimed inability to pay the restitution to Ms. Jacobson.

On December 10, 2007, the Office of Probation filed proof of a \$100 payment for December 2007 dated December 5, 2007 by Ms. Jacobson. On December 31, 2007, the Office of Probation filed proof of a \$100 payment for January 2008 dated December 22, 2007 by Ms. Jacobson. On February 27, 2008, the Office of Probation filed proof of a \$100 payment for February 2008 dated February 6, 2008 by Ms. Jacobson. On March 14, 2008, the Office of Probation filed proof of a \$100 payment for March 2008 dated March 5, 2008 by Ms. Jacobson.

On April 22, 2008, the Office of Probation filed proof of a \$100 payment signed on April 7, 2008 by Ms. Jacobson. On May 23, 2008, the Office of Probation filed proof of a \$100 payment signed on May 16, 2008 by Ms. Jacobson. On June 19, 2008, the Office of Probation filed proof of a \$100 payment signed on June 16, 2008 by Ms. Jacobson.

From December 2006 through November 2007, respondent owed Ms. Jacobson \$1,200 (\$100 for each month) and she paid Ms. Jacobson \$1,200. From December 2007 through June 2008, respondent owed Ms. Jacobson \$3,500 (\$500 each month) but only paid \$700 (\$100 for each month).

On July 30, 2008, the Office of Probation filed proof of payments totaling \$4,130 signed July 20, 2008 by Ms. Jacobson; this payment completed all \$7,200 of the restitution owed to Ms. Jacobson through the entire probationary period which was scheduled to end November 5, 2008.

On November 13, 2006, the Office of Probation mailed respondent a courtesy letter

outlining the terms and conditions of her probation; respondent received the letter.

On November 16, 2006, the Office of Probation held a telephonic initial meeting with respondent and discussed the terms and conditions of her probation. Respondent stated that her attorney would be filing a motion to modify the medical report and restitution conditions.

On November 27, 2006, the Office of Probation telephoned respondent and reminded her that her first restitution payment was due no later than December 15, 2006 and that she had to send the Office of Probation sufficient proof of receipt of the restitution. She stated that she knew that.

On December 1, 2006, respondent mailed a cashier's check for \$100 to Lissa Jacobson. On December 2, 2006, a notice was left for Ms. Jacobson that certified mail (enclosing the \$100 payment from respondent) was waiting for her to pick up.

On December 5, 2006, the Office of Probation received a call from respondent asking when proof of restitution was due; she was given the deadline.

On December 11, 2006, Deputy Trial Counsel Sherrie McLetchie informed the Office of Probation that she had been contacted by Ms. Jacobson. Ms. Jacobson did not want to sign the certified receipt card for the restitution check sent to her by respondent because Ms. Jacobson had moved and she did not want respondent to have Ms. Jacobson's new address.

On December 15, 2006, the Office of Probation was informed by Ms. Jacobson that she did not want any contact with respondent and asked whether there was any way she could receive restitution without anything going back to respondent. Ms. Jacobson was advised that the Office of Probation would look into this and get back to her.

On December 21, 2006, the Office of Probation advised Ms. Jacobson that she could send a declaration of receipt of restitution directly to the Office of Probation rather than sending it to respondent. That same day, the Office of Probation advised respondent to enclose such a

declaration with each restitution payment to Ms. Jacobson.

Also on December 21, 2006, the United States Postal Service determined that respondent's certified letter, enclosing the December 2007 payment to Ms. Jacobson, was undeliverable and returned it to the postal office from which respondent had sent the item. The item had been unclaimed for nineteen days. The item arrived at the postal office from which respondent had sent it on January 5, 2007.

On January 5, 2007, January 17, 2007, and January 22, 2007, the Office of Probation received telephone calls from Ms. Jacobson stating that she had not received payment from respondent for December 2006.

On January 23, 2007, the Office of Probation spoke with respondent by telephone. Respondent said that she would pick up the returned check from the postal office that day and mail the December 2006 payment to Ms. Jacobson "this week."

On May 3, 2007, the Office of Probation received a voice mail message from respondent and returned the call that same day. Respondent asked for a two week extension to make restitution. Respondent was informed that the Office of Probation did not have the authority to grant an extension, but that she could file a motion requesting an extension with the State Bar Court. Respondent stated that she would have counsel file a motion. Respondent was reminded that the amount of restitution was increasing from \$100 to \$500 in the second year of her probation pursuant to page 14 of the stipulation.

On October 16, 2007, respondent telephoned the Office of Probation asking whether the Office of Probation was to be notified of her motion to modify her probation; she was told "yes." Also on that date, telephone calls and messages were made among the Office of Probation, respondent, and respondent's counsel. Respondent's counsel was informed that a copy of any

motion was to be served on the Office of Probation; respondent's counsel informed the Office of Probation that he was only representing respondent in relation to the motion, not in regards to all probation issues.

On December 4, 2007, the Office of Probation telephoned respondent at her membership records telephone number, but could not leave a message because the voice mail box was full.

On March 11, 2008, the Office of Probation received a phone call from Ms. Jacobson stating that she had only been receiving \$100 monthly instead of \$500 since December 2007.

On April 9, 2008, the Office of Probation received a phone call from Ms. Jacobson stating that she had only received \$100.

D. Additional Facts Established at the Hearing

In October 2007, respondent contacted her attorney, Jonathan Arons, who had represented her in the underlying matter, and informed him that she was going to have difficulty in making restitution because her financial circumstances had dramatically changed. She asked him to file a modification motion, however, he did not file the modification motion until January 2008. On February 11, 2008, the court denied respondent's motion filed by and through her attorney Jonathan Arons because the motion was incomplete in that it failed to address all of the requirements of rule 550 of the Rules of Procedure.

Between December 2007 and June 2008, respondent was in poor financial health. Her average monthly income was approximately \$900 - \$1300. In July 2008, respondent received some funds from a case she had worked on and used this money to pay off the balance of the ordered restitution in the form of one lump sum.

E. Probation Violation

The only issue at the revocation hearing was respondent's failure to make restitution in the amount that she had agreed to pay. Respondent admits that she did not comply with the condition

of her probation in Case No. S145631 in that during the second year of her probation she was to increase her monthly payments from \$100 to \$500 to Ms. Jacobson. Instead, respondent continued to make monthly payments of \$100 to Ms. Jacobson. From December 2006 through November 2007, respondent owed Ms. Jacobson \$1200 (\$100 each month) and she paid Ms. Jacobson \$1200. From December 2007 through June 2008, respondent owed Ms. Jacobson \$3500 (\$500 each month) but only paid \$700 (\$100 for each month).⁵

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. (Citations.)” (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

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 in a probation revocation proceeding is the preponderance of the evidence.

The Office of Probation has demonstrated by a preponderance of the evidence that respondent willfully violated the probation conditions ordered by the Supreme Court in its October 6, 2006 order in that she has failed to pay her ordered restitution in a manner consistent with the Supreme Court’s Order. As a result, the revocation of respondent’s probation in California Supreme Court case No. S145631 is warranted.

IV. Mitigating and Aggravating Circumstances

A. Mitigation

There are numerous mitigating circumstances in this case. Respondent has displayed candor and cooperation during the State Bar proceedings. (Rules of Proc. State Bar, tit. IV, Stds

⁵ However, on July 30, the State Bar filed proof of payments totaling \$4130 signed July 20, 2008, by Ms. Jacobson; this payment completed all \$7200 of the restitution owed to Ms. Jacobson through the entire probationary period which was scheduled to end November 5, 2008.

for Att. Sanctions for Prof. Misconduct, std 1.2(e)(v).⁶) Respondent participated in the present matter and entered into an extensive stipulation of facts with the Office of Probation.

Respondent's good faith is another mitigating factor. (Standard 1.2(e)(ii).) Her financial situation was dire. She could not afford to make a \$500 a month payment when her monthly income was \$900 - \$1300. Despite her financial difficulties, respondent continued to pay restitution in the amount of \$100 per month. Although respondent did not bring a successful motion to modify the terms of her probation, she made it known to both the court and the Office of Probation that she was unable to afford the increased restitution payments. Once respondent obtained the means, she paid off the balance of the outstanding restitution in one lump sum. In doing so, respondent fully satisfied her restitution requirement ahead of the anticipated payment schedule.

B. Aggravation

Respondent's prior discipline record is an aggravating factor. (Standard 1.2(b)(i).) As discussed *ante*, respondent, in the underlying matter, committed misconduct resulting in a one-year stayed suspension, with two years' probation, and a 120 day actual suspension.

V. Degree of Discipline

The purpose of a disciplinary proceeding is not punitive but to inquire into the fitness of the attorney to continue in that capacity for the protection of the public, the courts, and the legal profession. (Standard 1.3; e.g.; *Chasteen v. State Bar* (1985) 40 Cal.3d 586, 591; *Bradpiece v. State Bar* (1974) 10 Cal.3d 742, 748.) Specifically, the chief aims of attorney disciplinary probation are the protection of the public and rehabilitation of the attorney. (See *In the Matter of Potack, supra*, 1 Cal. State Bar Ct. Rptr. 525, 540) In arriving at a proper discipline, the court

⁶ All further references to standard(s) are to this source.

must balance all relevant factors, including mitigating circumstances, on a case-by-case basis. (See *Codiga v. State Bar* (1978) 20 Cal.3d 788, 796; *Bernstein v. State Bar* (1972) 6 Cal.3d 909, 919.) The discipline ultimately imposed must be consistent with its purpose, that of protecting the public, the courts, and the legal profession from unfit practitioners. (*In re Nevill* (1985) 39 Cal.3d 729, 734.).

The Office of Probation recommends that respondent's probation be revoked and that she be actually suspended for a period of one year, the entire period of respondent's stayed suspension in Case No. S145631. The court disagrees.

The court finds *In re Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, to be instructive. In *Gorman*, the respondent was on a one-year stayed suspension with a two-year probation. Said probation was subsequently revoked due to respondent's failure to: (1) make full restitution in a timely fashion;⁷ and (2) timely complete the State Bar's Ethics School. In aggravation, the respondent had a prior record of discipline consisting of his underlying matter. In addition, respondent's failure to comply with duties he voluntarily undertook without the intervention of the State Bar, and his repeated use of the Yolo County District Attorney's Office pleading caption on documents respondent filed in the State Bar Court on his own behalf, were noted as additional factors in aggravation. In mitigation, respondent cooperated with the State Bar by entering into a stipulation of facts, and made sincere steps to make restitution and comply with probation. The Review Department of the State Bar Court recommended that respondent's stayed suspension be set aside, that he be suspended for one year, that execution of the suspension be stayed, and that he be placed on probation for two years with a 30-day actual suspension.

While the present case shares many similarities with *Gorman*, the absence of four

⁷ The respondent paid the principal sum of the restitution approximately two months late, and then paid the interest portion of the restitution nine months late.

significant factors substantiates the conclusion that the present case warrants a lower level of discipline. First, *Gorman* involved violations of two conditions of probation rather than one. Second, the respondent in *Gorman* made full restitution nine months late, as opposed to the present case where, although some payments were late, full restitution was made prior to the expiration of the payment schedule. Third, in *Gorman* the Review Department noted that although the respondent lacked the ability to pay the ordered restitution, he never explained this fact to the probation unit or sought an extension of time based on his inability to pay. Alternatively, in the present case, respondent communicated with the Office of Probation regarding her inability to make the increased restitution payments and filed with the court an unsuccessful motion to modify the terms of her probation.⁸ And finally, *Gorman* involved more aggravation and less mitigation than the present matter.

The court finds that respondent's failure to comply with the terms of her probation was a product of her poor financial health. Once respondent procured the funds to pay off the restitution, she did so in a timely fashion. Now that the restitution has been paid, the court finds it unlikely that respondent will be unable to comply with the remaining terms of her prior probation. Therefore, after weighing the facts, considering the standards and relevant case law, and balancing the mitigating and aggravating factors, the court finds the imposition of actual suspension to be inappropriate and unduly punitive.

VI. Recommended Discipline

The court recommends that the probation of respondent **Christine Garcia**, previously ordered in Supreme Court Case No. S145631 (State Bar Court Case No. 02-O-15594; 04-O-11385; 06-O-10706) be revoked; that the previous stay of execution of the suspension be lifted; that respondent be suspended from the practice of law for one year; that execution of the

⁸ Said motion was denied due to the fact that it was inadequately pled.

suspension be stayed; and that she be placed on probation for two years on the following conditions:

1. During the period of probation, respondent must comply with the State Bar Act and the Rules of Professional Conduct;
2. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the first report will cover less than thirty (30) days, the report must be submitted on the next following quarter date, and cover the extended period.

In addition to all the quarterly reports, a final report, containing the same information is due no earlier than twenty (20) days before the last day of the probationary period and no later than the last day of the probationary period;

3. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation, which are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with the conditions contained herein;
4. Within ten (10) days of any change, respondent must report to the Membership Records Office of the State Bar, 180 Howard Street, San Francisco, California 94105-1639, **and** to the Office of Probation, all changes of information, including current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;
5. Respondent shall obtain psychiatric or psychological help/treatment from, or under the

supervision of, a duly licensed psychiatrist, psychologist, clinical social worker, or marriage family therapist at respondent's own expense a minimum of four times per month, and shall furnish evidence to the Office of Probation that respondent is so complying with each quarterly report.⁹ Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment shall continue for the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, clinical social worker, or marriage family therapist determines that there has been a substantial change in respondent's condition, respondent, the Office of Probation, or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, clinical social worker, or marriage family therapist, by affidavit or under penalty of perjury, in support of the proposed modification;

6. Within one year of the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of completion of no less than four hours of Minimum Continuing Legal Education (MCLE) approved courses in evidence (two hours) and civil procedure (two hours). This requirement is separate from any MCLE requirement, and respondent will not receive MCLE credit for attending Ethics School (Rules Proc. of State Bar, rule 3201.);

⁹ Due to the revocation of respondent's probation, her motions to modify the terms of probation are rendered moot and hereby denied. No good cause having been shown, respondent's accompanying motions to seal are also denied. However, in consideration of respondent's moving papers the court includes the present condition.

7. The period of probation will commence on the effective date of the order of the Supreme Court 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 will be satisfied and that suspension will be terminated.

It is not recommended that respondent attend Ethics School, as respondent attended and completed that course within the last two years. It is also not recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) as respondent recently provided proof of passage in connection with matter number S145631.

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.

Dated: November ____, 2008

PAT McELROY
Judge of the State Bar Court