PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **JEFFREY C. SWARTZLANDER** **Member No. 122210** A Member of the State Bar.	**Case No.: 08-PM-11770-DFM** **ORDER GRANTING MOTION TO REVOKE PROBATION AND ORDER OF INACTIVE ENROLLMENT**

This matter is before the court on the motion filed by the State Bar's Office of Probation (hereinafter "State Bar") on May 2, 2008, to revoke the disciplinary probation that the Supreme Court imposed on **Jeffrey C. Swartzlander** (respondent) in its August 9, 2006 order in *In re Jeffrey Charles Swartzlander on Discipline,* case no. S143867 (State Bar Court case no. 05-O-01378) (hereinafter "Supreme Court order"). In its motion, the State Bar alleges that respondent violated his probation by: (1) failing to timely contact the Office of Probation to schedule a meeting with his assigned probation deputy and failing to timely schedule or attend a meeting to discuss the terms and conditions of his probation; (2) failing to timely submit quarterly reports for the reporting periods of January 10, 2007, April 10, 2007, July 10, 2007, October 10, 2007, January 10, 2008, and April 10, 2008; and (3) failing to timely provide proof of attendance at the State Bar Ethics school and passage of the test given at the end of any such session.

As will be discussed in greater detail below, the court finds, by a preponderance of the evidence (Bus. & Prof. Code, §6093, subd. (c)[1]; Rules Proc. of State Bar, rule 561), that

[1] All further references to section(s) are to the Business and Professions Code.

respondent willfully violated the conditions of his probation. Accordingly, the court grants the State Bar's motion to revoke respondent's probation.

The State Bar, represented by Supervising Attorney Terrie Goldade, contends that respondent should be actually suspended from the practice of law for one year, the period of stayed suspension ordered by the Supreme Court in 2006. In addition, the State Bar asks that probationer's actual suspension continue until respondent establishes his rehabilitation, fitness to practice, and learning in the law in accordance with standard 1.4 (c)(ii) of the Rules of Procedure of State Bar, tit. IV, Standards for Attorneys Sanctions for Professional Misconduct.[2] Finally, the State Bar requests that respondent be involuntarily enrolled as an inactive member of the State Bar pursuant to section 6007, subdivision (d).

The court agrees with the State Bar's recommendations and recommends discipline as set forth below. In addition, the court orders that respondent be involuntarily enrolled as an inactive member.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Respondent was admitted to the State Bar on December 31, 1985, and was a member at all times pertinent to these charges. In 2004, he failed to pay the required State Bar membership fees and was suspended in September 2004 as a result. Respondent received notification both before and after his suspension of the fact that he had been suspended. Nonetheless, he continued to practice law in violation of the Supreme Court's order issued on August 27, 2004, effective September 16, 2004. A disciplinary action was subsequently filed against him. On April 4, 2006, respondent entered into a stipulation re facts, conclusions of law and disposition. The stipulation included willful violations of sections 6125 and 6126 [unauthorized practice of

[2] All references to standard(s) are to this source, unless otherwise noted.

law], section 6068(a) [failure to support laws of this state], rule[3] 3-110(A) of the Rules of Professional Conduct [intentional, reckless, or repeated failure to perform legal services with competence], rule 3-700(D)(1) [failure to release client file], rule 3-700(D)(2) [failure to refund unearned fees], and section 6068(m) [failure to respond to client status inquiries]. The stipulated discipline included stayed suspension of one year, probation for two years, and a number of specified conditions of probation. These conditions included the following:

> Within 30 days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
>
> 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. Respondent must also state in each report whether there are any proceedings pending against him or her in the State Bar Court and, if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.
>
> Within one (1) year of the effective date of the discipline herein, respondent must provide to 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.

In addition to the above conditions of probation, respondent also agreed that he would provide proof of passage of the Multistate Professional Responsibility Examination (hereinafter "MPRE") within one year and that failure to pass the MPRE would result in actual suspension without further hearing until passage.

The stipulation was approved by the State Bar Court on April 18, 2006, and filed on April 28, 2006.

---

[3] All further references to rule(s) are to the Rules of Professional Conduct, unless otherwise noted.

On August 9, 2006, the California Supreme Court issued its order, which included the one-year stayed suspension, two years of probation, and conditions of probation recommended by the Hearing Department. The order also required respondent to take and pass the MPRE within one year after the effective date of the Supreme Court's order. That order became effective on September 8, 2006.

Respondent was properly served with the Supreme Court's order.[4] On September 29, 2006, the State Bar Office of Probation wrote to respondent regarding his obligations under the Supreme Court order. In this letter, respondent was reminded of his obligation to schedule a meeting with the Office of Probation within 30 days from the effective date of the order, his ongoing obligation to provide quarterly reports to the Office of Probation, and his need to attend and pass the State Bar Ethics School prior to September 8, 2007. The letter included the warning that "Failure to timely submit reports or any other proof of compliance will result in a non-compliance referral to the State Bar Court or referral for action by the Supervising Attorney of the Office of Probation." The letter further advised respondent that, should he need to seek an extension of time of any of the terms and conditions of the discipline order, he needed to direct any such request to the State Bar Court, rather than the Office of Probation. At the time this letter was sent to respondent, a package of additional information was included with it, including another copy of the Supreme Court order, a copy of the conditions of probation, a schedule for the MPRE testing dates, a sample quarterly report form with instructions, and the schedule and enrollment information for the State Bar Ethics School.

Despite the Office of Probation's September 29, 2006, reminder letter, respondent did not schedule a meeting with the designated probation monitor within the 30-day period after the

[4] It is presumed that respondent was served with the disciplinary order of the Supreme Court. While that is a rebuttable presumption, respondent offered no evidence or argument that he was unaware of the Supreme Court order. (See *In re Linda D.* (1970) 3 Cal.App.3d 567; *People v. Smith* (1965) 234 Cal.App.2d 407; Evid. Code, §664.)

effective date of the Supreme Court order. His only effort to comply with this obligation was to leave a voicemail with the Office of Probation on October 10, 2006. The Office of Probation attempted to contact respondent on the following day, October 11, 2006, and left a message for him to return the call. Respondent failed to do so.

Respondent's first quarterly report to the Office of Probation was due on January 10, 2007. His second report was due on April 10, 2007. On July 19, 2007, when neither of these reports had been filed, the Office of Probation sent a letter to respondent, notifying him that his reports were overdue and reiterating his obligation to file the quarterly reports on the four designated dates. This letter also reminded respondent of his obligation to review the terms and conditions of his probation with the Office of the Probation, an obligation that he had still not satisfied. The letter warned respondent that his continued non-compliance could lead to the imposition of additional discipline. Finally, the letter stated that the Office of Probation would not be sending any further reminder letters.

Notwithstanding respondent's obligations under the Supreme Court order and the Office of Probation's efforts to motivate respondent to comply with them, respondent failed to contact the Office of Probation or to timely file his quarterly reports due on July 10, 2007, October 10, 2007, January 10, 2008, and April 10, 2008.

As previously noted, under the Supreme Court's order, respondent was also obligated to both complete and pass the State Bar Ethics School by September 8, 2007. He did neither. Nor did he seek any extension of the time for him to fulfill this obligation.

On March 5, 2008, the State Bar first sought to revoke respondent's probation with a motion filed in case no. 08-PM-10938, a matter also assigned to this court. That motion was mailed by certified mail to the street address maintained by respondent, albeit with the wrong unit number listed on the proof of service. The letter was not returned to the State Bar, and

respondent makes no suggestion that he did not receive it. Nonetheless, he did not file any response to the motion. On March 11, 2008, this court properly served on respondent a Notice of Assignment. Thereafter, on April 4, 2008, this court properly served on respondent a submission order, noting the fact that the motion to revoke his probation had been filed, that he had not filed a response, and that the matter was being ordered to stand submitted for a decision. Each of these documents was served on respondent at the correct address. He makes no suggestion that he did not receive them. Nonetheless, he made no appearance in the matter. Nor did the pending revocation motion prompt him to timely file the quarterly report due just days later, on April 10, 2008.

On April 28, 2008, on this court's discovery that the proof of service attached to the initial motion did not list a completely correct address, this court denied the initial motion to revoke without prejudice. A copy of that order was properly served on respondent at his correct address and was received by him.

On May 2, 2008, the instant motion to revoke probation was filed and properly served on respondent. Respondent did not timely file with this court a response to the motion. Accordingly, on May 28, 2008, this court issued a submission order, noting respondent's failure to file a response and submitting the matter for decision.

On May 29, 2008, this court received a letter from respondent, stating that he had mailed a copy of his response to the State Bar's attorney but that he had failed to file it with the State Bar Court. He blamed his failure to file his response with the court on his "lack of familiarity with [the court's] mailing procedures." The letter included a copy of his response and his quarterly reports for each of the reporting dates up to April 10, 2008. Each of these quarterly reports was executed by respondent on May 23, 2008, the same day that he had mailed his response to the revocation motion to the State Bar's attorney. In his most recent quarterly report,

for the period ending April 10, 2008, he indicated that had completed the State Bar Ethics School, but not until May 8, 2008. He also did not disclose the pendency of either the State Bar disciplinary action pending on April 10, 2008, or the instant action (pending on the date he filed the report), notwithstanding the requirement in the conditions of probation that he do so.

As a consequence of respondent's letter and submittal, this court scheduled an in-person status conference to address whether the late response should be accepted and the submittal order vacated. That status conference was scheduled for June 17, 2008, at 1:30 p.m. Notice of that scheduled status conference was properly sent by the court to respondent on June 5, 2008. At the time of the scheduled status conference, counsel for the State Bar was present but respondent was not. When he arrived at the court later that day, the State Bar's counsel returned to the court and a second status conference was held. At that time, the court vacated the submission order and scheduled a hearing of the motion (pursuant to respondent's request) on July 2, 2008.

At the hearing, respondent failed to show any good justification for his repeated failures to comply with the conditions of probation set forth in the stipulation signed by him in April 2006 and included in the Supreme Court's order. In a declaration filed by him with his response, he referred to having significant heart problems beginning in August 2006, resulting in stents being surgically implanted in September 2006. However, no evidence from any medical provider or other expert was offered to this court to support any contention by respondent that his heart problems should be found to be mitigating. (Cf., Standard 1.2(e)(iv).)

In addition, respondent referred to emotional and marital stresses taking place in the latter part of 2006, including being "sued for divorce" by his wife in November 2006 (with the termination of the marriage being final in July 2007) and the death of his father in October 2007. In his response, he stated the impact of these emotional stresses as follows:

> As I had opted for additional stents rather than quintuplet bypass surgery during my second heart procedure, with the advice a heart surgeon [sic], I can still

> expect to need a bypass operation within the next 5-10 years, so I didn't need any additional stress going forward. One of those factors was my law practice and its difficulties, and the way I chose to deal with that was to primarily put it aside for the time being and try not to worry about it. That led to my not timely following the terms of my probation, although I tried initially to do so. In fact, I have not practiced law of any kind since August of 2006, when my association in San Diego broke up, through this date. In short, I suspended myself from the practice of law for the past 21 months due to all the turmoil and difficulties and lived on borrowed funds over this entire period.

At the hearing on July 2, 2008, respondent provided a supplemental declaration, dated June 25, 2008, in which he further elaborated on the reasons for his non-compliance. In this declaration, respondent again reported being effectively unemployed since July 2006, when the attorney for whom he had been performing significant contract work reached the conclusion that respondent "had not done valid work for which [respondent] had billed him." Thereafter, respondent stated there were a number of sources of problems and stress for him, including his medical problems; problems caused by his then wife; problems caused by his siblings; problems caused by the loan company seeking to foreclose on his house; problems caused by the IRS collection office, which was seeking to collect on a $60,000 tax indebtedness; and problems caused by respondent's longstanding history of depression. Because of these many problems, respondent once again stated that his essential way of dealing with his law practice was "to put everything about it on the back burner, out of sight, out of mind. I didn't and haven't practiced law ever since that time [2006], so it was natural just to ignore most everything about it and reconsider my future after awhile and decide what I wanted to be when I grew up."

In this second declaration, respondent went on to report that, when he eventually returned in late Fall of 2007 to thinking about satisfying his obligations as a member of the State Bar (after he had been suspended for nonpayment of his State Bar dues in September 2007), he elected to put all of his energy solely into passing the MPRE, deferring any attention to the other obligations created by the Supreme Court order until after that exam had been passed. Pursuant

to the Supreme Court order, he was obligated to pass this examination by September 8, 2007. He first took the MPRE in November 2007, during a trip to see his parents in Ohio, but failed the examination. He learned of this failure in early December 2007. Because he was obligated under the Supreme Court's order to pass the MPRE within a year of the effective date of that order, his entitlement to practice law was suspended in February 2008.

Respondent took the MPRE a second time in March 2008, and received a passing score. He learned of those results on April 8, 2008. Although respondent's April 10 quarterly report was due two days later, he nonetheless made no effort to file it at the time. His reasoning for not doing so was set out in his second declaration as follows: "In the meantime I knew that the bar had ordered my suspension based on the fact I had not passed the MPRE as of February 2008 and was somewhat aware that the bar was further attempting to move on further suspension due to other probation issues, but until I learned I passed the MPRE I could care little for those other issues as I had been already suspended in September 2007[5] and had suspended myself ever since my heart attack."

In his response, respondent represented that he enrolled during April 2008 in the State Bar Ethics class to be given on May 8, 2008. He indicated at trial that he attended the class on that date. All of this conduct took place after respondent was aware that the State Bar was seeking to revoke his probation. Even at the time of trial, however, respondent had not presented proof that he passed the class.

At no time during this proceeding has respondent expressed or demonstrated any remorse for his complete disregard of the Supreme Court order. Instead, he criticized the State Bar for

[5] The stipulation and subsequent Supreme Court order required that respondent pay costs to the State Bar, with one half of those costs to be paid with respondent's membership dues for the years 2007 and 2008. In his declaration, respondent indicated that he still owes those costs to the State Bar. He further indicated that in September 2007, he was suspended for non-payment of dues. There is no indication he has paid his dues since that date, either for 2007 or 2008.

not handling his non-compliance "by more meaningful and less confrontational methods." In addition, he questioned the need for the current quarterly probation report, stating: "It seems to me that the current report format involving the simple checking of a single box and occasionally informing the Bar what it already has knowledge of is useful primarily as a trap for the unwary and serves little of any other meaningful or valuable purpose."[6] This latter contention by respondent is one with which both the State Bar Court and the Supreme Court are in substantial disagreement. (See *Ritter v. State Bar* (1985) 40 Cal.3d 595, 605; *In the Matter of Weiner* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 759, 762; *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 705.)

To establish culpability for a probation violation charged in a probation revocation proceeding, the State Bar must prove, by a preponderance of the evidence, the text of the probation condition that the attorney is charged with violating and that the attorney willfully failed to comply with it. Willfulness in this context does not require a bad purpose or evil intent. Instead, it requires only a general purpose or willingness to commit an act or permit an omission. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

The court finds that respondent violated the conditions of his probation and that those violations were willful. Without question, respondent's willful probation violations warrant the revocation of his probation. (Section 6093, subd. (b).)

AGGRAVATING CIRCUMSTANCES

Prior Record of Discipline

As noted above, respondent has a prior record of discipline, as reflected in the Supreme Court order. That discipline arose from respondent's decision to continue to practice law even

[6] At the same time, respondent acknowledged that, when he finally got around to completing the quarterly probation reports, it was a "ten second task."

though he was aware that he had been ordered suspended by the Supreme Court because of his failure to pay his State Bar dues.

There is a continuing theme in the misconduct underlying the prior discipline and the misconduct resulting in the instant proceeding. Both matters arise out of respondent's refusal to conform his conduct to obligations created by an order of the Supreme Court directed at him.

Multiple Acts of Misconduct

Respondent has been found culpable of at least seven separate probation violations. That is an aggravating circumstance. (Standard 1.2(b)(ii).)

In addition, respondent's declaration established an additional violation by him of the Supreme Court order, namely his failure to timely take and pass the MPRE. Although that misconduct is an uncharged violation, it was introduced by respondent in the course of seeking to explain his misconduct. As a result, it may be considered as an aggravating circumstance. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 36.)

Indifference Towards Rectification of Misconduct

Respondent's response to his professional obligations, and to being confronted by the State Bar with his non-compliance with those obligations, has been, at best, indifference. In many instances, his reaction would more appropriately be described as defiance. When the State Bar sought to assist him in September and October 2006 in complying with the conditions of his probation, he responded by ignoring it. When the State Bar eventually was forced to take steps to require him to comply with his obligations, he responded first with indifference, followed by criticism. His propensity to justify his misconduct by blaming others continued even at the hearing of this matter.

As a result of respondent's multiple failures to comply with the obligations imposed on him by the Supreme Court order, the State Bar has been required to contact him on numerous

occasions and has now been required twice to seek the involvement of this court. This recurring need for the State Bar to intervene in order "to seek respondent's compliance with duties he voluntarily undertook was inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney disciplinary system." (*In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.) Considering all of the attendant circumstances, significant weight in aggravation is assigned.

MITIGATING CIRCUMSTANCES

Respondent has failed to prove any mitigating circumstance. Although he complained of physical and emotional difficulties, there was a complete lack of any expert testimony establishing that such problems were directly responsible for the misconduct. The evidence also failed to demonstrate that respondent no longer suffers from such difficulties or disabilities. As will be discussed below, this latter issue is a source of some concern to this court.

DISCUSSION

The use of attorney discipline probation has increased with such frequency that it is now posed in almost every disciplinary proceeding in which either actual or stayed suspension is ordered. (*In the Matter of Marsh* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291, 298.) The Review Department has repeatedly held that the primary goals of probation are protection of the public and rehabilitation of the attorney. (*In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445, 452; *In the Matter of Marsh, supra*, 1 Cal. State Bar Ct. Rptr. at p. 298.) What is more, because an attorney has an independent statutory duty to comply with all conditions attached to any disciplinary probation, an attorney's violation of a disciplinary probation condition is grounds for both (1) revoking the attorney's probation and (2) disciplining the attorney. (Sections 6068, subd. (k) and 6093, subd. (b); see also Rules Proc. of State Bar, rule 562.)

Disciplinary probation is effective "only when the attorneys placed on probation are effectively monitored to ensure (1) that they do not engage in misconduct and (2) that they are undertaking to conform their conduct to the ethical strictures of the profession." (*In the Matter of Weiner, supra,* 3 Cal. State Bar Ct. Rptr. 759, 763.) The Review Department has repeatedly held that "an attorney probationer's filing of quarterly probation reports is an important step towards the attorney's rehabilitation. [Citations.]." (*Ibid.)* "At a minimum, quarterly probation reporting is an important step towards an attorney probationer's rehabilitation because it requires the attorney, four times a year, to review and reflect upon his professional conduct.... In addition, it requires the attorney to review his conduct to ensure that he complies with all of the conditions of his disciplinary probation." (*Id.* at p. 763.) Finally, the probationer's filing of quarterly reports is a recognized and important means of protecting the public because it permits the State Bar to monitor the attorney's compliance with the State Bar Act and the Rules of Professional Conduct. (*In the Matter of Meyer, supra*, 3 Cal. State Bar Ct. Rptr. at p. 705.)

Respondent's continued unwillingness to comply with his quarterly reporting probation condition alone creates serious public protection concerns. These failures, when coupled with his demonstrated and repeated indifference to the need to comply with his professional obligations, demonstrate that respondent has not significantly engaged in the rehabilitative process since the Supreme Court issued its order in August 2006. Accordingly, this court concludes that respondent's present probation violation warrants one year's actual suspension, which is the greatest level of actual suspension that this court may recommend. (Rules Proc. of State Bar, rule 562; *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 574, fn. 5.) This conclusion is supported by the fact that, when an attorney repeatedly violates the same condition of probation, the gravity of each violation increases and warrants greater discipline. (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal.State Bar Ct. Rptr. 523, 531.)

In addition, this Court concludes that just placing respondent on actual suspension for one year is inadequate to protect the public or to effectuate respondent's rehabilitation. For far more than the one-year stayed suspension contemplated by the initial discipline, respondent has demonstrated both an indifference to the need to comply with his professional obligations and to begin the rehabilitative process. The attitude reflected by his response to the motion to revoke his probation, described above, causes this court to conclude that it is highly unlikely that the passage of an additional one year of actual suspension will be adequate time for there to be any level of comfort that the public will not be endangered, should respondent then re-enter the practice. This conclusion is underscored by the fact that respondent has not been eligible to practice law since September of 2007 because of his indifference to his professional obligations (such as paying his State Bar membership dues), but nonetheless remains largely indifferent to those obligations. The court's concern for the public is further enhanced by the fact that respondent's statement that he has not been practicing since August 2006, having "voluntarily suspended" himself at that time. As a result, it is this court's conclusion that two additional steps must be ordered in order to ensure that the public will be protected when respondent re-enters active practice.

First, it is necessary to require respondent to demonstrate that he is now willing and capable of engaging the rehabilitative process by complying with the probation conditions that were originally imposed on him under the Supreme Court's August 2006 order (and to which he stipulated) by imposing virtually identical conditions on him prospectively for three years. (*In the Matter of Meyer, supra,* 3 Cal. State Bar Ct. Rptr. at p. 705.)

Second, because the evidence offered by respondent reveals that he has not yet substantially undertaken the rehabilitative process despite being the subject of the Supreme Court order for nearly two years and has not been actively engaged in the practice of law since the

beginning of August 2006, some additional review of his situation by this court is warranted and necessary before respondent should be allowed to re-enter the practice of law at the end of the actual suspension recommended above. To do otherwise would pose a risk of harm to the public and the profession. As a result, the court concurs with the State Bar's recommendation that respondent be required, as a condition of re-entering the practice, to provide proof satisfactory to the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the general law and in accordance with standard 1.4(c)(ii). Such a requirement has been utilized by the Review Department in the past and may be ordered, notwithstanding the restrictions of Rule of Procedure, rule 562. (See *In the Matter of Luis* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 737.)

RECOMMENDATION

Accordingly, the court recommends as follows:

Disciplinary Recommendation

The court recommends that the probation of respondent **Jeffrey Charles Swartzlander**, previously ordered in Supreme Court Case No. S143867 (State Bar Court Case No. 05-O-01378), be revoked; that the previous stay of execution of the suspension be lifted; that respondent be actually suspended from the practice of law for one year, with credit given for the time spent on inactive enrollment, and until he provides satisfactory proof of his rehabilitation and fitness to practice within the meaning of standard 1.4(c)(ii); and that he be placed on probation for three years on the following conditions:

1. Respondent must comply with the provisions of the State Bar Act, the 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. Within 30 days from the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request.

4. 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:

    (i) 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

(ii) 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 (ii) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California.

5. 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 this probation.

6. Respondent's probation will commence on the effective date of the Supreme Court order imposing discipline in this matter.

California Rules of Court, Rule 9.20

The court 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's order in this matter. Willful failure to comply with the provisions of rule 9.20 may result in revocation of probation, suspension, disbarment, denial of reinstatement, conviction of contempt, or criminal conviction.[7]

Multistate Professional Responsibility Examination

[7]If this requirement is ordered by the Supreme Court, respondent will be 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.)

Due to respondent's successful passage of the Multistate Professional Responsibility Examination in March 2008, it is not recommended that he be ordered to take and pass the Multistate Professional Responsibility Examination.

State Bar Ethics School

It is recommended that, within one (1) year of the effective date of the Supreme Court's order in this matter, respondent must provide to 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. It is further recommended that this obligation may be deemed satisfied by presentation to the Office of Probation of satisfactory proof that respondent attended and passed the State Bar Ethics School in May 2008.

Costs

The court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Order of Involuntary Inactive Enrollment

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

Dated: July 28, 2008

DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on July 28, 2008, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO REVOKE PROBATION AND ORDER OF INACTIVE ENROLLMENT

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

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

JEFFREY CHARLES SWARTZLANDER ESQ
9974 SCRIPPS RANCH BLVD # 355
SAN DIEGO, CA 92131

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

Terrie L. Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **July 28, 2008**.

Julieta E. Gonzales

Julieta E. Gonzales
Case Administrator
State Bar Court