

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of	)	Case No.: <b>09-O-12085-PEM</b>
	)	<b>(09-O-12213; 10-O-03693</b>
<b>DEMAS W. YAN,</b>	)	<b>10-O-03694; 10-O-03753</b>
	)	<b>10-O-06199)</b>
<b>Member No. 257854,</b>	)	
	)	<b>DECISION AND ORDER VACATING</b>
A Member of the State Bar.	)	
_____	)	

**Introduction**<sup>1</sup>

In this disciplinary proceeding, respondent Demas W. Yan stipulated to misconduct stemming from one client matter, misuse of his client trust account and receiving unemployment benefits to which he was not entitled for one month. Respondent and the Office of the Chief Trial Counsel of the State Bar of California (State Bar) entered into a stipulation of facts and conclusions of law which was approved and filed on March 16, 2012. On July 3, 2012, the State Bar filed a motion requesting the return to the State Bar of 24 disciplinary matters, including this one, for further consideration. By order filed on August 27, 2012, the Supreme Court denied the motion as untimely, but, on its own motion, returned it for further consideration of the recommended discipline in light of the applicable attorney discipline standards.<sup>2</sup> While the

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

<sup>2</sup> The Stipulation Re Facts, Conclusions of Law and Disposition filed on March 16, 2012, is hereby converted to a stipulation as to facts and conclusions of law only, and State Bar Court

parties remained bound by the facts and conclusions of law contained in the stipulation, they were permitted to add evidence at trial supporting mitigation and aggravation.<sup>3</sup>

On January 29, 2013, a hearing based on the stipulation was held in which the only issue was the level of discipline. The State Bar was represented by Robert Henderson. Respondent was represented by Randall Knox. On January 30, 2013,<sup>4</sup> following closing arguments and respondent's submission of a closing brief on the level of discipline, the matter was submitted for decision.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on December 1, 2008 and has been a member of the State Bar of California at all times since that date.

#### **Case No. 09-O-12085 - The Li Matter**

##### **Background**

Respondent graduated from San Jose State University with a degree in electrical engineering in 1987. After working many years in that field, he decided to become a lawyer because of business problems with his former partner. Trying to understand the law, little by little, respondent began taking classes via an on-line law school in 2004 when his legal problems began and completed the course in four years. He had never taken any law classes before. He took the Bar examination in 2008 and passed on his first attempt.

The Li case, a complicated matter, began long before respondent was an attorney.

Charles Li was an engineer who respondent hired to work on a project. At the time, respondent

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staff is directed to remove the Stipulation Re Facts, Conclusions of Law and Disposition filed on March 16, 2012, from the State Bar's website.

<sup>3</sup> In the stipulation, the parties agreed and the court approved the dismissal in the interests of justice to the following charges contained in the NDC: Count 1D (§§ 6068, subdivision (a)/6125/6126); Counts 2A and B (§§ 6068, subdivision (o)(3) and 6103); Counts A and B (§6106.3, subdivision (a) and rule 4-200(A)); and Count 6A (rule 3-110(A).)

<sup>4</sup> The parties did closing arguments on January 29, 2013, however, the court permitted them to submit closing briefs by January 30, 2013.

was in a partnership with Tony Fu, a licensed contractor and his good friend of 10 years, on some real estate projects.

The project that caused all the problems between Fu, respondent and Li involved real estate in San Francisco's Richmond district and included buying a house from Fu's wife, Chrystal Lei, and hiring Fu as a contractor. Respondent wrote an agreement with Fu which was pretty much a poorly-written gentleman's agreement – one page: Respondent would pay him \$3,000 a month and, at the end of the project, respondent would get 10% of the sale proceeds from the house.

Respondent was relying on Fu to build the house. At one point, Fu was working on the house when his license was suspended, so respondent dismissed him and they agreed to terminate the agreement.

Respondent's legal problems began with Fu. Respondent found out that Fu embezzled funds from him while working on projects and that he did many things that harmed respondent financially.

Unbeknownst to respondent, Fu assigned the agreement/contract to Li for \$100,000. Respondent discovered that Fu told Li that the contract was worth more than \$200,000 if Li tried to enforce this contract against respondent.

Li did sue trying to enforce the contract. (*Charles Li v. Demas Yan.*) Respondent represented himself and Li was represented by Siu Ma. Respondent's defense was that Fu's contract was terminated and that, as an unlicensed contractor, Fu could not legally enforce it.

After respondent filed an answer, he discovered that Li had filed a separate lawsuit against Fu for fraud for assigning him a contract that was terminated or not legally enforceable. Respondent then told Li's attorney in this lawsuit, Paul Masala, that the two pending lawsuits

were contradictory and asked him to dismiss the lawsuit against respondent. Masala actually agreed with respondent and asked Li to dismiss.

Later, Li contacted respondent who told him he had received a dismissal form from his attorney, but that his attorney would not help him out or file it. Li had dismissed his attorney, Paul Masala, in the *Li v. Fu* matter. There was a fee dispute. Li asked respondent to help him fill out the form. The *Li v. Yan* lawsuit was dismissed sometime in August 2007.

Because Li represented himself in *Li v. Fu*, respondent helped him, disclosing that he was not a licensed attorney. Respondent and Li agreed that, once respondent was licensed, he would become his attorney of record in *Li v. Fu*.

Siu Ma represented Li in *Li v. Yan*. Respondent was unsure whether Siu Ma still represented Fu in that lawsuit because Li sued Siu Ma over a fee dispute regarding that lawsuit.

Respondent wanted to sue Fu and Siu Ma. He discovered that Li was a nominal plaintiff in *Li v. Yan* and that Fu was the mastermind behind it. Li showed respondent the original agreement that he and Fu entered into in which they agreed to split any proceeds from *Li v. Yan*.

Respondent told Li that he wanted to bring a malicious prosecution lawsuit against Fu and Siu Ma and name Li as a nominal defendant. Li asked and respondent agreed to delay filing the lawsuit until the last minute before the one-year statute of limitations for malicious prosecution expired.

During the foregoing events, respondent was not yet licensed as an attorney. He represented himself in filing the malicious prosecution lawsuit against Fu, Siu Ma and Li (as a nominal defendant) in August 2008.

Respondent became licensed to practice law in December 2008. On January 27, 2009, respondent and Li negotiated the attorney fee agreement regarding the *Li v. Fu* case. He did not

know that he needed a written conflicts waiver at that point although he was both representing and suing Li.<sup>5</sup>

In *Li v. Fu*, there was a court-mandated mediation in March 2009. The mediator told respondent there was a conflict of interests in his representing Li and also told Li about it because respondent had sued Li and the contract Fu assigned to Li might be enforceable. Shortly thereafter, Li fired respondent, represented himself at the mediation and dismissed *Li v. Fu* with prejudice. Respondent believes that Fu and Chrystal Lei encouraged the dismissal.

Li unsuccessfully tried to revive his original lawsuit. *Li v. Yan*, against respondent and Fu.

In March 2009, respondent dismissed Li without prejudice from the malicious prosecution case. He did so because they had agreed that Li would be a nominal defendant and that he would not be served with the complaint. After Li fired him, respondent told him that he was keeping his promise and dismissing Li.

The court believes that Fu and Li were difficult people and that respondent was in over his head as a newly-minted lawyer.

### **Stipulated Facts**

On December 31, 2008, he opened a client trust account (CTA) at Wells Fargo Bank, account no. 632-543XXXX. The CTA opened by respondent was titled "Yan Law Offices IOLTA."

On August 19, 2008, respondent represented himself and filed in San Francisco Superior Court case no. CGC-08-478815, *Demas Yan v. Siu Ma et al. (Yan v. Ma)*. One of the named defendants in the matter was Charles Li.

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<sup>5</sup> Respondent never served Li with the complaint in the malicious prosecution case.

On January 27, 2009, respondent entered into an attorney-client relationship with Charles Li. Respondent was to represent Li in San Francisco Superior Court case no. CGC-07-461167, *Charles Li v. Tony Fu et al. (Li v. Fu)*. On January 27, 2009, Li paid respondent \$2,000 in advanced costs to be held in trust pursuant to the contract. Respondent did not deposit the funds into the CTA.

On January 30, 2009, respondent filed a first amended complaint in *Yan v. Ma and Fu* and left Li as a named defendant. Moreover, as of that date, respondent did not provide a written disclosure to Li that respondent had filed suit against him nor did he obtain Li's informed written consent to the potential conflict of interest.

On March 22, 2009, Li terminated respondent's services. On March 23, 2009, respondent filed a dismissal without prejudice dismissing Li from *Yan v. Ma*.

Between January 27, 2009 and March 22, 2009, there were no costs in *Li v. Fu*.

Beginning in April 2009, Li demanded the return of the \$2,000 in advanced costs.

On July 20, 2009, respondent sent Li a billing statement which claimed \$11,000 in time spent on *Li v. Fu*.

In June 2010, respondent returned the \$2,000 of advanced costs to Li.

## **Conclusions**

### ***Count 1A - (Rule 4-100(A) [Failure to Maintain Client Funds in Trust Account])***

Rule 4-100(A) provides that all funds received or held for the benefit of clients must be deposited in a client trust account and no funds belonging to the attorney or law firm must be deposited therein or otherwise commingled therewith, except for limited exceptions.

Respondent willfully violated rule 4-100(A) by not depositing the \$2,000 in advanced costs that was received for the benefit of a client in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import.

***Count 1B - (§ 6106 [Moral Turpitude])***

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude or corruption constitutes cause for suspension or disbarment.

Respondent committed an act of moral turpitude in willful violation of section 6106 by misappropriating Li's \$2,000 in advance costs.

***Count 1C - (Rule 3-310(C)(3) [Avoiding Representation of Adverse Interests, Written Consent])***

Rule 3-310(C)(3) provides that an attorney must not, without the written consent of each client, represent a client in a matter and at the same time in another matter accept a client with an interest in the first matter that is adverse to the client in the first matter.

Respondent willfully violated rule 3-310(C)(3) when he represented Li in *Li v. Fu* while suing Li in *Yan v. Ma* and not informing Li of the nature of the conflict or obtaining Li's written consent to the conflict.

**Case No. 10-O-03693 - SBI**

**Facts**

On November 16, 2009, respondent deposited \$1,700 into his Wells Fargo Bank account no. 5004183XXX CTA, proceeds from a case he had already completed.

**Conclusions**

***Count 3C - (Rule 4-100(A) [Failure to Maintain Client Funds in Trust Account])***

Respondent willfully violated rule 4-100(A) by depositing his own funds into his CTA thereby commingling his and clients' funds.

**Case No. 10-O-03694 - SBI**

**Facts**

On March 10, 2009, respondent opened an Interest on Lawyer Trust Account (IOLTA) at Wells Fargo Bank, account no. 5102904XXX titled “Demas W. Yan DBA SF Mortgage Legal Services IOLTA.” Between March 10 and October 5, 2009, respondent commingled his own funds in this account and paid his personal bills as follows:

April 3, 2009 Fudena Bros, Inc.	\$ 500.00
April 22, 2009 Tom's Multi Service	\$1,500.00
April 22, 2009 Michael Colo	\$ 500.00
May 20, 2009 Bill Pay Cheuk	\$2,500.00
May 20, 2009 Michael Colo	\$ 500.00
June 4, 2009 Bill Pay Cheuk	\$5,000.00
June 16, 2009 Theresa Vuong	\$ 800.00
July 8, 2009 Michael Colo	\$1,500.00

**Conclusions**

***Count 4A - (Rule 4-100(A) [Failure to Maintain Client Funds in Trust Account])***

Respondent willfully violated rule 4-100(A) by depositing and maintaining his own funds in his IOLTA account for his own use and benefit to pay his bills.

**Case No. 10-O-03753 - SBI**

**Facts**

On December 31, 2008, respondent opened an IOLTA account at Wells Fargo Bank, account no. 632-543XXXX.2 titled “Yan Law Offices IOLTA.” Between December 31, 2008 and July 23, 2009, respondent commingled his own funds and paid his personal bills from this account as follows:



April 7, 2009 DMV Renewal	\$ 91.00
April 7, 2009 Elizabeth Tran	\$ 500.00
April 21, 2009 Illegible	\$1,100.00
April 23, 2009 Elizabeth Tran	\$ 92.03
April 23, 2009 Elizabeth Tran	\$ 250.00
April 28, 2009 Fudenna Bros.	\$ 250.00
May 4, 2009 Elizabeth Tran	\$ 600.00
June 30, 2009 Fudenna Bros.	\$ 250.00
July 3, 2009 Jennifer David	\$ 78.00

Furthermore, between December 31, 2008, and July 23, 2009, and between March 10 and October 5, 2009, respondent was actively engaged in the practice of law as evidenced by the deposits into the Yan Law Offices IOLTA and Demas W. Yan DBA SF Mortgage Legal Services IOLTA, respectively. Between June 17 and July 17, 2009, respondent received into the Yan Law Offices IOLTA at least \$5,337.12 and at least \$1,000 into the Demas W. Yan DBA SF Mortgage Legal Services IOLTA, all attributable to his law practice.

On July 17, 2009, respondent commingled his own funds by depositing into the Yan Law Offices IOLTA, check no. U57409105 in the amount of \$950 made payable to Dennis Yan. The check was from the Employment Development Department (EDD) for unemployment benefits for the period ending July 11, 2009. When respondent signed the check, he attested: "I reaffirm that in claiming these benefits I correctly answered the questions on the CONTINUED CLAIM form and honestly reported all work and earnings."

Respondent was not entitled to the unemployment benefits he received because he received more than \$6,000 during that time, all attributable to his law practice. Respondent misrepresented his entitlement to the benefits when he endorsed and deposited the EDD check.

## **Conclusions**

### ***Count 5A - (Rule 4-100(A) [Failure to Maintain Client Funds in Trust Account])***

By depositing and maintaining his own funds in the Yan Law Offices IOLTA account for his own use and benefit to pay his bills, respondent deposited or commingled funds belonging to him in a bank account labeled “Trust Account,” “Client's Funds Account” or words of similar import in willful violation of rule 4-100(A).

### ***Count 5B - (§ 6106 [Moral Turpitude])***

By claiming unemployment benefits to which he was not entitled, by affirming that he was entitled to the benefits and by depositing these funds into the Yan Law Offices IOLTA, respondent committed acts involving moral turpitude, dishonesty and corruption in willful violation of section 6106.

## **Aggravation<sup>6</sup>**

### **Multiple Acts/Pattern of Misconduct (Std. 1.2(b)(ii).)**

Respondent engaged in multiple acts of misconduct.

### **Harm to Client/Public/Administration of Justice (Std. 1.2(b)(iv).)**

Li had to wait for over 10 months to be refunded his \$2,000. Respondent did not refund the money right away because he believed Li owed him attorney fees. He refunded the money to Li after a fee arbitration.

## **Mitigation**

### **Good Faith (Std. 1.2(e)(ii).)**

Respondent was young and inexperienced in the practice of law. He had just started his practice. He did not see the conflict because of the understanding he had with Li before

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<sup>6</sup> All references to standards (std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

respondent was an attorney. He also did not really understand the importance of trust accounting. His youth and inexperience can be given some weight in mitigation. (See *Recht v. State Bar* (1933) 218 Cal. 352, 355; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 997, 998.) He also honestly, but erroneously, believed that he was entitled to collect unemployment benefits for that two-week period.

**Candor/Cooperation to Victims/State Bar (Std. 1.2(e)(v).)**

Respondent stipulated to facts and culpability thereby saving court time and resources.

**Remorse/Recognition of Wrongdoing (Std. 1.2(e)(vii).)**

Respondent recognizes his wrongdoing regarding the conflict of interests and CTA issues. There have been no additional CTA issues since the time of the misconduct. Respondent credibly testified at the hearing of the chastening effect the disciplinary proceedings have had on him and that he has a heightened awareness of his responsibilities as a lawyer. He appreciates his ethical and professional obligations more than ever.

**Discussion**

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.6(a).) Discipline is progressive. However, the standards do not require a prior

record of discipline as a prerequisite for imposing any appropriate sanction, including disbarment. (Std. 1.7(c).)

Standards 2.2 (a) and (b), 2.3, 2.6 and 2.10 apply in this matter. The most severe sanction is suggested by standard 2.2(a): disbarment or, if the amount misappropriated is insignificantly small or if the most compelling mitigation clearly predominates, one year's actual suspension for willful misappropriation of entrusted funds or property.

The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91, 92; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

This case involves representing adverse interests and negligently misappropriating \$2,000 (later returned) in one client matter, several instances of commingling personal and entrusted funds and improperly receiving unemployment benefits for two weeks. Aggravating factors include client harm and multiple acts of misconduct. In mitigation, the court gave some weight to respondent's youth and inexperience and also considered candor and cooperation and recognition of wrongdoing.

Respondent seeks to maintain the previously agreed-to level of discipline: one year actual suspension. The State Bar now recommends disbarment.

The evidence does not indicate that respondent acted dishonestly or with the intent to deprive clients and others of the funds due them. Rather, respondent was a very inexperienced lawyer who was grossly and recklessly negligent in the managing of his trust account due to

ignorance. There have been no further incidents since the time of the misconduct and respondent now understands the importance of good trust accounting practices and his ethical obligations.

In *Lipson v. State Bar* (1991) 53 Cal.3d 1010, the Supreme Court recognized that misappropriation can be committed in different degrees of culpability deserving of different discipline. For example, the Supreme Court has differentiated between mere negligent misappropriations unaccompanied by acts of deceit or other aggravating factors and willful misappropriations where a client's money is taken by the attorney through acts of deception or with an intent to deprive. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38.) "Even where the most compelling mitigating circumstances do not clearly predominate, extenuating circumstances relating to the facts of the misappropriation may render disbarment inappropriate." (*Lipson, supra*, 53 Cal.3d at p. 1022; See also, *In the Matter of Robins* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708; *In the Matter of Tindall* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652. Disbarment will not be recommended where there is no evidence that a sanction short of disbarment is inadequate to deter future misconduct and protect the public. (*In the Matter of Hertz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456, 472.)

The court found instructive *In the Matter of Dyson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280. In *Dyson*, the attorney deposited \$4,700 of the settlement funds into his personal checking account. The funds were owed to the clients' doctor under a medical lien. The attorney made restitution about 18 months later after the doctor had retained counsel and contacted the State Bar. He was found culpable of failing to deposit the funds to pay medical liens into his trust account, commingling entrusted and personal funds in his personal bank account, failing to pay the doctor promptly upon demand and committing acts involving moral turpitude. The attorney had no prior discipline in about eight years of practice at the time of the misconduct. The attorney was actually suspended for one year with a three-year stayed

suspension and three years' probation because compelling mitigation was not found sufficient to deviate from the one-year minimum actual suspension suggested by standard 2.2(a). The instant case merits similar discipline.

Having considered the facts and law, the court recommends, among other things, actual suspension for one year. Respondent now understands the importance of trust accounting and other professional responsibilities. He has had no further incident. As a precaution, the court recommends that he be ordered to comply with certain trust accounting probation conditions, complete the State Bar's Client Trust Accounting School and to join the State Bar's Law Practice Management and Technology section so that he can be monitored and exposed to the appropriate ways of conducting a law practice and avoid recidivism.

### **Recommendations**

It is recommended that respondent Demas W. Yan, State Bar number 257854, be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that respondent be placed on probation<sup>7</sup> for a period of three years subject to the following conditions:

1. Respondent Demas W. Yan is suspended from the practice of law for the first one year of probation.
2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.
3. Within 30 days after 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. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code

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<sup>7</sup> The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

section 6002.1, subdivision (a), including respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.

5. During the probation period, respondent must report in writing quarterly to the Office of Probation. The reports must be postmarked no later than each January 10, April 10, July 10, and October 10 of the probation period. Under penalty of perjury, respondent must state in each report whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of respondent's probation conditions during the preceding calendar quarter or applicable reporting period. If the first report would cover less than 30 days, no report is required at that time; however, the following report must cover the period of time from the commencement of probation to the end of that next quarter. In addition to all quarterly reports, a final report must be postmarked no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.
6. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.
7. Respondent must comply with the following reporting requirements:
  - a. If respondent possesses client funds at any time during the period covered by a required quarterly report, respondent must file with each required report a certificate from a certified public accountant or other financial professional approved by the Office of Probation certifying that:
    - i. Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account"; and
    - ii. Respondent has complied with the "Trust Account Record Keeping Standards" as adopted by the Board of Governors pursuant to rule 4-100(C) of the Rules of Professional Conduct.
  - b. If respondent does not possess any client funds, property or securities during the entire period covered by a report, respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, respondent need not file the certificate described above.

The requirements of this condition are in addition to those set forth in rule 4-100 of the Rules of Professional Conduct.

8. Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of completion of the State

Bar's Ethics School and of the State Bar's Client Trust Accounting School and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School or Client Trust Accounting School. (Rules Proc. of State Bar, rule 3201.)

9. Within 30 days after the effective date of discipline, respondent must join the Law Practice Management and Technology section of the State Bar of California and pay the dues and costs of enrollment for two years. Respondent must provide satisfactory proof of section membership to the office of Probation with respondent's first required quarterly report.
10. At the expiration of the probation period, if respondent has complied with all conditions of probation, respondent will be relieved of the stayed suspension.

### **Multistate Professional Responsibility Examination**

It is recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

### **California Rules of Court, Rule 9.20**

It is further recommended that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

### **Costs**

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.



**Order**

The order filed on March 16, 2012, approving the parties' Stipulation Re Facts,  
Conclusions of Law and Disposition in the above-entitled matter is hereby **VACATED**.

Dated: May \_\_\_\_\_, 2013

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PAT E. McELROY  
Judge of the State Bar Court