PUBLIC MATTER – NOT DESIGNATED FOR PUBLICATION

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case Nos. 11-O-14081; 13-J-11204; 13-O-17118 (Cons.)
	)	
LYNN HUBBARD III,	)	
	)	OPINION
A Member of the State Bar, No. 69773.	)	
	)	

This is Lynn Hubbard III's first State Bar disciplinary proceeding, and it arises from alleged misconduct committed in three federal district court cases. A hearing judge found Hubbard culpable in each matter—most seriously, he found that Hubbard made misrepresentations to two federal district courts and to opposing counsel. The hearing judge's recommended discipline included a one-year actual suspension.

Both Hubbard and the Office of the Chief Trial Counsel of the State Bar (OCTC) appeal. Hubbard contests culpability, claims he should receive more credit in mitigation, and contends that the appropriate discipline should be a 30-day actual suspension at most. OCTC accepts the hearing judge's findings of fact and culpability, but seeks more aggravation and less mitigation. It urges that the recommended discipline should include a two-year actual suspension to continue until Hubbard provides proof of his rehabilitation and fitness to practice law.

Upon independently reviewing the record (Cal. Rules of Court, rule 9.12), we affirm the hearing judge's culpability findings. We also find more aggravation and less mitigation than did the judge. After reviewing the relevant case law addressing an attorney's dishonesty to courts, we find that Hubbard's misconduct warrants a one-year actual suspension to continue until he proves his rehabilitation and fitness to practice law.

I. PROCEDURAL BACKGROUND

Hubbard was admitted to practice law in California on September 20, 1976. On May 15, 2014, OCTC filed a Notice of Disciplinary Charges (NDC) in case number 11-O-14081 (Bhullar matter) and a separate NDC in case number 13-J-11204 (Plaza Bonita matter). On July 11, 2014, OCTC filed an NDC in case No. 13-O-17118 (Vogel matter). On August 25, 2014, the three matters were consolidated. OCTC filed an amended NDC in the Vogel matter on October 15, 2014. During a five-day trial that ended on November 10, 2014, the parties entered into a written stipulation of facts, a written stipulation to judicial notice of documents, and an oral stipulation to culpability in the Bhullar matter. On February 18, 2015, the hearing judge issued his decision.

II. THE BHULLAR MATTER (CASE NO. 11-O-14081)

On April 4, 2011, the United States District Court for the Central District of California (Central District) sanctioned Hubbard $1,100 for missing a court-ordered scheduling conference in *Kohler v. Bhullar Investments, LLC* (Bhullar action). The order directed the clerk of the court to notify the State Bar of the sanctions order. Hubbard was present when the order was issued and was therefore aware of it. However, he believed that the order directing the clerk to notify the State Bar satisfied his own duty to do so. Hubbard failed to report the order to the State Bar within 30 days. Instead, he did so on June 14, 2011, 71 days after the order was issued.

OCTC charged that Hubbard failed to report the $1,100 sanctions to the State Bar within 30 days, in violation of Business and Professions Code section 6068, subdivision (o)(3).[1] On the first day of trial, Hubbard stipulated that he was culpable for failing to timely report his $1,100 sanctions. Based on that stipulation, the hearing judge found culpability. We affirm.

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[1] Section 6068, subdivision (o)(3), requires an attorney "[t]o report to the [State Bar], in writing, within 30 days of the time the attorney has knowledge of . . . [¶] . . . [¶] . . . [t]he imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars ($1,000)." All further references to sections are to the Business and Professions Code.

III. THE PLAZA BONITA MATTER (CASE NO. 13-J-11204)

A. Hubbard's Misconduct in the United States District Court

For many years, Hubbard has represented plaintiffs claiming violations of the Americans with Disabilities Act (ADA) against various businesses. On July 22, 2009, Hubbard filed a complaint alleging ADA violations in the United States District Court for the Southern District of California (Southern District) on behalf of his gravely ill mother, Barbara Hubbard, against Plaza Bonita Shopping Center and several of its tenants (Plaza Bonita action). Barbara[2] signed an authorization for the Disabled Advocacy Group (DAG)[3] to endorse settlement agreements and checks for her in the Plaza Bonita action.

On November 11, 2009, Hubbard met with Barbara, who told him to settle the case for whatever he could get. He had secured settlements from all named defendants except Hot Topic and Flava Enterprises (Flava), and planned to leave on a trip to China. Hubbard instructed his paralegal to send settlement proposals to counsel for Hot Topic and Flava, which he did on November 12, 2009. On November 13, 2009, Barbara passed away.

On December 8, 2009, nearly a month after Barbara's death, Hubbard faxed a settlement agreement, ostensibly signed by his mother, to counsel for Hot Topic. Her signature on the settlement agreement was not done by her own hand. Hot Topic was later dismissed from the Plaza Bonita action.

On December 9, 2009, Hubbard faxed a settlement agreement with Barbara's purported signature to Flava's counsel without disclosing that Barbara had died. Again, she herself did not sign her name on the settlement agreement. Instead, Hubbard's paralegal signed "Barbara Hubbard" at Hubbard's instruction.

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[2] We refer to Barbara Hubbard by her first name to avoid confusion.

[3] At all times relevant hereto, Hubbard was employed by DAG, a professional law corporation wholly owned by Hubbard's son, also an attorney.

On February 25, 2010, United States Magistrate Judge William V. Gallo conducted a settlement conference with Hubbard and defense counsel. During this conference, Hubbard informed the court for the first time that Barbara had passed away on November 13, 2009. He also told Magistrate Judge Gallo that: (a) he had heard that his mother was gravely ill; (b) she had signed several blank settlement agreements prior to her death; and (c) he was considering substituting in another client, Chris Kohler, as the plaintiff. However, he failed to disclose that: (a) he had personally observed Barbara's deteriorating condition just before her death; (b) the signed settlement agreements sent to opposing counsel did not bear her actual signature; and (c) his father, Lynn J. Hubbard II, had assumed "unofficial" control of the lawsuit as early as November 17, 2009, but no later than December 8, 2009. After the settlement conference, Magistrate Judge Gallo directed Hubbard to file a Notice of Death pertaining to Barbara, pursuant to rule 25 of the Federal Rules of Civil Procedure (28 U.S.C.). Hubbard did so on March 17, 2010.

On March 29, 2010, Hubbard filed a Motion to Substitute Barbara with Lynn.[4] However, Lynn died two days later. Hubbard promptly notified the court and all remaining parties of Lynn's death.

B. Order to Show Cause Hearing

On May 12, 2010, Hubbard filed an ex parte motion to dismiss as to the remaining defendant, Flava. Flava opposed the motion and requested an Order to Show Cause (OSC) hearing about the possible falsification of Barbara's signature on the settlement agreement with Flava after her death. The OSC request was granted.

On June 28, 2010, the assigned district judge referred the OSC to Magistrate Judge Gallo. Hearings on the OSC commenced on October 12, 2010, and extended into 2011.

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[4] We refer to Lynn J. Hubbard II by his first name to avoid confusion.

On June 13, 2011, Magistrate Judge Gallo issued an order finding, inter alia, that Hubbard, or somebody at his direction, "placed Barbara's signature on the Settlement Agreements with Flava and Hot Topic under an expired power of attorney to do so, but *without informing* Flava's or Hot Topic's counsel that he had done so." (Italics in original.) Magistrate Judge Gallo found that Hubbard's "conduct in *not informing* Flava's and Hot Topic's counsel that the signatures on the settlement agreements were not, in fact, Barbara's signature, was deceptive and punishable conduct." (Italics in original.) Magistrate Judge Gallo also found that Hubbard, recklessly and in bad faith, misled and concealed facts regarding Barbara's death and the origin of her purported signatures from both Flava's and Hot Topic's counsel and from the court. Magistrate Judge Gallo further concluded that Hubbard's conduct "unreasonably and vexatiously multiplied the proceedings in this case" and "disrupted the proceedings in this litigation and . . . delayed its conclusion." As such, Magistrate Judge Gallo imposed monetary sanctions against Hubbard. Hubbard's conduct was also reported to the State Bar and referred to the Southern District's Standing Committee on Discipline (Standing Committee). Hubbard then filed objections to Magistrate Judge Gallo's order with the assigned district judge. On November 29, 2011, the district judge overruled Hubbard's objections.

C. The Southern District Disciplinary Proceeding

On August 8, 2012, the Standing Committee commenced a disciplinary action against Hubbard for alleged professional misconduct. On December 18, 2012, a one-day bench trial was held. On February 4, 2013, United States District Judge M. James Lorenz found that, inter alia, Hubbard committed "intentionally deceptive and misleading conduct" in the Plaza Bonita action. Specifically, Judge Lorenz concluded that by sending settlement agreements purportedly signed by Barbara to counsel for Hot Topic and Flava, Hubbard attempted to mislead them into

believing that Barbara was alive. The judge further found that at the settlement conference, Hubbard made various statements intended to mislead the court.

Based on these findings, Judge Lorenz concluded that Hubbard's conduct violated, inter alia, rules 5-200[5] and 5-220[6] of the Rules of Professional Conduct; and sections 6106[7] and 6068, subdivisions (b)[8] and (d).[9] He suspended Hubbard from the practice of law in the Southern District for one year.[10]

D. The State Bar Reciprocal Disciplinary Proceeding

Based on the Southern District's February 4, 2013 order, OCTC charged Hubbard with professional misconduct under section 6049.1, which provides for an expedited disciplinary proceeding when an attorney has been disciplined by another state or federal jurisdiction. The hearing judge concluded that Hubbard's conduct in the Southern District violated, at a minimum, rules 5-200 and 5-220 and sections 6106 and 6068, subdivision (d). We affirm.

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[5] Though Judge Lorenz's order did not specify which subsection(s) of rule 5-200 Hubbard violated, it quoted subsection (A), which states: "In presenting a matter to a tribunal, a member: [¶] . . . [s]hall employ, for the purpose of maintaining the causes confided to the member such means only as are consistent with truth." All further references to rules are to this source unless noted.

[6] Rule 5-220 states that "[a] member shall not suppress any evidence that the member or the member's client has a legal obligation to reveal or to produce."

[7] Section 6106 states in relevant part: "[t]he commission of any act involving moral turpitude, dishonesty or corruption . . . constitutes a cause for disbarment or suspension." As the hearing judge noted, Judge Lorenz's decision accurately quotes section 6106, but mistakenly refers to it as section 6101.

[8] Section 6068, subdivision (b), requires an attorney "[t]o maintain the respect due to the courts of justice and judicial officers."

[9] Section 6068, subdivision (d), requires an attorney "[t]o employ . . . those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law."

[10] The Southern District's Local Civil Rule 83.4(b) specifically requires attorneys appearing in that court to "comply with the standards of professional conduct required of members of the State Bar of California." Hubbard's appeal of the discipline order was later dismissed by the United States Court of Appeals for the Ninth Circuit (Ninth Circuit), and, thus, the Southern District's order became final.

The Southern District's order is conclusive evidence that Hubbard is culpable of professional misconduct in California subject only to certain exceptions. (§ 6049.1, subd. (a); *In the Matter of Freydl* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349, 353.) Specifically, Hubbard must establish that either: (1) as a matter of law, his professional misconduct in the Southern District would not warrant discipline in California under the laws or rules binding upon State Bar members; or (2) the Southern District's disciplinary proceeding lacked fundamental constitutional protection. (§ 6049.1, subds. (b)(2), (3); *In the Matter of Jenkins* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157, 162.) If Hubbard fails to make this affirmative showing, the only remaining issue is the degree of discipline. (§ 6049.1, subd. (b)(1).)

We find Hubbard's culpability is established beyond dispute. First, he does not raise a constitutional challenge to the Southern District's disciplinary proceeding. (*In the Matter of Freydl*, *supra*, 4 Cal. State Bar Ct. Rptr. at p. 357 [issue not raised before Hearing Department or in briefs deemed waived].)

Second, Hubbard failed to prove that his misconduct in the Southern District does not warrant discipline in California as a matter of law. He concedes in his opening brief that his statement at the settlement conference that Barbara had signed blank settlement agreements before her death was "a material misrepresentation." That concession alone establishes that Hubbard did not employ means consistent with the truth (§ 6068, subd. (d); rule 5-200(A)), suppressed evidence he was obligated to reveal or produce (rule 5-220), sought to mislead Magistrate Judge Gallo (§ 6068, subd. (d)), and, by his dishonesty, committed an act of moral turpitude (§ 6106). In his rebuttal brief on review, Hubbard argues that his statement did not provide enough context to infer an intent to deceive as a matter of law. This is not persuasive. "The actual intent to deceive is not necessary; a finding of gross negligence in creating a false

impression is sufficient for violation of section 6106." (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 786.)

We reject Hubbard's arguments, and, as did Magistrate Judge Gallo, find that Hubbard's failure to inform opposing counsel was "deceptive and punishable conduct." As to his misrepresentations at the settlement conference, Hubbard contends that: they were not false or material; the district court did not make a materiality finding, and even if they were material, it was so remote that an intent to mislead cannot be inferred. But Judge Lorenz found that Hubbard's testimony at his disciplinary trial lacked credibility, and that each of Hubbard's misrepresentations was material and/or misleading. More fundamentally, we reject Hubbard's arguments as an impermissible attempt to re-litigate the conclusive findings of the district court. (*In the Matter of Freydl, supra*, 4 Cal. State Bar Ct. Rptr. at p. 358 [under § 6049.1, State Bar Court accepts federal court findings of misconduct as conclusive].)

Like the hearing judge, we find that Hubbard's conduct violated rules 5-200 and 5-220 and section 6068, subdivision (d). But we assign no additional disciplinary weight for these violations because the misconduct underlying the section 6106 violation supports the same or greater discipline. (*In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127.) Similarly, OCTC charged, but the hearing judge did not make findings regarding, violations of section 6068, subdivisions (b) and (c). We dismiss these allegations as duplicative and note that OCTC did not challenge the hearing judge's failure to specifically address them. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060 [little, if any, purpose is served by duplicate allegations of misconduct in State Bar proceedings].)

IV. THE VOGEL MATTER (CASE NO. 13-O-17118)

A. ADA Lawsuit

On January 23, 2013, Hubbard filed a complaint on behalf of Martin Vogel in the Central District (the Vogel action). It alleged, inter alia, that Vogel, a disabled person, had visited a McDonald's restaurant in Bellflower, California (the restaurant) operated by or on behalf of Tulaphorn, Inc. (Tulaphorn) and McDonald's Corp. (collectively, defendants). Further, it alleged that Vogel had encountered barriers to his use and enjoyment of the restaurant that violated the ADA and various state laws. Vogel sought injunctive and declaratory relief, statutory damages, attorney fees, litigation expenses, and costs of suit.

Although the complaint stated that Vogel "visited the restaurant," it did not state how often or the specific dates that he did so prior to filing the lawsuit. As such, on April 9, 2013, counsel for Tulaphorn contacted Hubbard's office to request "any photographs and/or other documents supporting Mr. Vogel's claims that he visited" the restaurant before filing the complaint. The next day, on April 10, 2013, a legal assistant in Hubbard's office responded to Tulaphorn's counsel by email (April 10 email), and stated: "Here is the receipt for the visit to [the restaurant]." The assistant attached a receipt dated January 8, 2013, which reflected the purchase of a large soda (January 8 receipt), and also sent three more emails with five photographs of the restaurant attached (January 8 photographs).

On June 25, 2013, Tulaphorn's counsel deposed Vogel. Vogel testified to six key facts: first, that his "first visit" to the restaurant was on January 8, 2013; second, that the January 8 receipt was his, as it reflected the large soda he purchased that day; third, that he took the January 8 photographs, and several others, of the restaurant; fourth, that he encountered access barriers at the restaurant during that visit; fifth, that, soon after his visit, he notified Hubbard of the access barriers, and provided Hubbard with the January 8 receipt to document that visit; and

sixth, that he visited the restaurant after filing the Vogel action, once in March, once in April, and once in June 2013.

The day after Vogel's deposition, Tulaphorn served Vogel with requests for production of documents (RFPs) seeking receipts and photographs that Vogel obtained during his alleged March, April, and June 2013 restaurant visits. Hubbard's office responded to the RFPs on Vogel's behalf,[11] and again attached the January 8 receipt and photographs to its response.

On August 5, 2013, Hubbard's office provided a supplemental response to the RFPs, which again represented that Vogel visited the restaurant and obtained the receipt on January 8, 2013.[12] The office also clarified that it had no receipts or photographs from Vogel's purported visits in April and June; however, it did attach a receipt dated July 4, 2013 to document Vogel's last visit.

Also on August 5, 2013, Hubbard signed and filed a summary judgment motion claiming that Vogel encountered access barriers during his visits to the restaurant on January 8, June 24, and July 4, 2013. Hubbard supported the motion with a written declaration from Vogel, in which Vogel again swore under penalty of perjury that he personally received the January 8 receipt on January 8, 2013. He also attached the January 8 receipt and the January 8 photographs to the declaration. Hubbard cited Vogel's declaration throughout the motion to prove Vogel visited the restaurant on January 8, 2013, before the complaint was filed.

On August 8, 2013, Tulaphorn's counsel notified Hubbard in writing that the restaurant's security video did not show Vogel at the restaurant on January 8, but, counsel maintained, showed Hubbard and a female companion purchasing the soda, receiving the January 8 receipt, and taking the January 8 photographs that Vogel testified he had taken.

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[11] Vogel's response to the RFPs was signed by a DAG associate attorney (DAG Associate).

[12] The DAG Associate signed the supplemental response under penalty of perjury.

On August 12, 2013, Hubbard responded by letter denying the existence of any videos, but nevertheless requesting a copy if any did exist. Further, he acknowledged that the January 8 receipt resulted from "[his] Rule 11 inspection" of the restaurant to confirm the existence of access barriers. Hubbard also asserted that the January 8 receipt was "inadvertently disclosed with Vogel's receipts," and that Hubbard's office would "amend [its] discovery responses to remove the January 8 visit" and would withdraw and re-file "[its] pending motion for summary judgment with the correct date."

That same day, Hubbard withdrew the pending motion for summary judgment, and his office served an amended supplemental response to Tulaphorn's RFPs, removing all references to the January 8, 2013 visit.[13] The next day, Hubbard filed an amended motion for summary judgment, which replaced the claim that Vogel visited the restaurant on January 8, 2013, with the statement that Vogel visited it "on numerous occasions both before and after January 2013." It also attached a new declaration from Vogel, which substituted the assertion that he visited the restaurant "several times prior to January 2013" for his previous claim that he was there on January 8, 2013. Hubbard's office also served an errata sheet to Vogel's deposition transcript, which Vogel authorized and signed, reflecting changes to 121 answers Vogel gave at his deposition. That errata sheet contains many contradictory alterations to the substance of Vogel's testimony, including numerous denials that he visited the restaurant, obtained a receipt, and took photographs, on January 8, 2013. We adopt the hearing judge's finding that "[t]hese changes so drastically modified his prior responses as to render his amended answers meaningless and/or non-responsive." Moreover, the errata sheet did not offer any explanation as to *why* Vogel made the changes, as required under the Federal Rules of Civil Procedure.

[13] The DAG Associate signed the amended supplemental response under penalty of perjury.

B. Sanctions Motion and Hearing

On September 5, 2013, Tulaphorn filed a motion for terminating sanctions and attorney fees (sanctions motion). Tulaphorn argued that Vogel and Hubbard acted in bad faith because they knowingly asserted false allegations in the complaint, presented false supporting evidence, and changed pertinent facts to cover up these material misrepresentations when confronted with the video footage.[14]

On October 7, 2013, Hubbard filed an opposition to the motion on Vogel's behalf and argued that any inconsistent or contradictory statements made by counsel or Vogel were attributable to "an honest mistake." Hubbard renewed his previous claim that he had obtained the January 8 receipt during a Rule 11 inspection visit and that it was inadvertently placed in Vogel's case file. He insisted that neither he nor Vogel realized that Vogel never sent him a receipt from his pre-litigation visits. Further, Hubbard claimed that Vogel had been to the restaurant sometime before January 8, 2013, and had then alerted Hubbard to the alleged ADA violations.

On November 4, 2013, Judge Gutierrez heard oral arguments on the sanctions motion (sanctions hearing). The following day, he granted the motion as to terminating sanctions, but denied without prejudice the motion as to attorney fees (November 5 Order).

In his 23-page order, Judge Gutierrez concluded that both Vogel and his counsel had acted in bad faith with respect to a case-dispositive issue, standing to sue, and had participated in a pattern of deception throughout the case.[15] Judge Gutierrez also found that the motion for

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[14] On October 2, 2013, United States District Judge Philip S. Gutierrez issued an order denying Vogel's amended motion for summary judgment, concluding that it was unclear and disputed whether Vogel had visited the restaurant prior to filing his lawsuit.

[15] Judge Gutierrez used the term "Counsel," which was the defined term for DAG in the November 5 Order, and did not explicitly identify Hubbard by name in making these findings. Nevertheless, Hubbard and the DAG Associate were the only DAG attorneys specified by name in the November 5 Order, and it is clear that Judge Gutierrez was referring to their conduct.

summary judgment that Hubbard signed contained misrepresentations. He expressly rejected Hubbard's claim of "honest mistake" because Hubbard's assertions were facially contradictory and impossible to reconcile as follows: (1) if Vogel never sent a receipt to Hubbard, then Hubbard could not have inadvertently confused the January 8 receipt with one sent by Vogel; (2) Vogel's and Hubbard's inability to produce a receipt documenting Vogel's visit belied Vogel's testimony that he sent Hubbard such a receipt; (3) no legal authority required Hubbard to document a Rule 11 visit, and, given Hubbard's experience with the fact-sensitive nature of proving standing to sue in ADA lawsuits, Hubbard would have known to be vigilant about properly labeling any receipts he retained as his own rather than Vogel's; and (4) Hubbard made no attempt to explain his affirmative misrepresentation that Vogel took the January 8 photos. Moreover, he "seriously question[ed]" Hubbard's credibility,[16] and found that "[Hubbard and the DAG Associate's] conduct reeks so strongly of mendacity the Court cannot ignore it . . . ." As to the belated claim that Vogel visited the restaurant sometime before January 8, 2013, Judge Gutierrez wrote: "[T]his claim comes so late and with such a tainted history that the Court has every reason to conclude that Plaintiff will 'continue to deceive' and 'say anything at any time in order to prevail.' [Citations.]" Finally, Judge Gutierrez found Vogel's and Hubbard's bad faith misrepresentations prejudiced Tulaphorn, the court, and the public interest.

On November 18, 2013, Tulaphorn filed a new motion for attorney fees and costs, which Hubbard opposed. On January 30, 2014, Judge Gutierrez awarded Tulaphorn attorney fees and costs of $68,239.22,[17] recoverable against Vogel and DAG, jointly and severally. The award was based on Vogel's and his counsel's "bad faith litigation tactics."

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[16] Judge Gutierrez used the term "Counsel" and did not explicitly identify Hubbard by name when he made this finding, but it is clear that he was referring to Hubbard. Indeed, Hubbard conceded as much in his post-trial brief below, stating: "Judge Gutierrez sided with Tulaphorn on the basis that he did not find Lynn Hubbard to be credible."

[17] This award was subsequently increased by an additional $7,097.50.

On February 17, 2016, the Ninth Circuit affirmed Judge Gutierrez's November 5 Order in a memorandum disposition. In its ruling, the Ninth Circuit found that Judge Gutierrez had not abused his discretion in granting Tulaphorn's sanctions motion and "reasonably determined that both Vogel and his attorney participated in a pattern of falsification of evidence that amounted to bad faith." In a dissenting opinion, Judge Reinhardt stated: "The critical factual issue in this case is what the plaintiff, Martin Vogel, did and when. Although Hubbard, Vogel's counsel, specifically asked that Vogel be allowed to testify at the sanctions hearing, the district judge refused to allow him to do so."

C. Vogel Testimony in the State Bar Court

Though Vogel did not testify at the sanctions hearing, he did at Hubbard's disciplinary hearing, and acknowledged that the January 8 receipt was not his. And he contradicted his deposition testimony—that January 8, 2013 marked his "first visit" to the restaurant—claiming to have been to the restaurant "countless times," including "several times prior to the January 8th visit." He could not, however, provide a receipt from any of his purported pre-January 8, 2013 visits. Vogel also acknowledged that he did not take the January 8 photographs. He claimed Hubbard "mixed up" the photographs and receipt Vogel sent to him. Later, he confirmed that Hubbard "lost" the receipt, which contradicts the version of events set forth in opposition to the sanctions motion.

D. Culpability

Count One: Seeking to Mislead Judge (§ 6068, subd. (d))
Count Two: Moral Turpitude (Misrepresentation) (§ 6106)

Count One alleges that Hubbard made false or misleading statements in the complaint and the initial summary judgment motion in the Vogel action by stating that Vogel visited the restaurant on January 8, 2013, when, in fact, Vogel had not, in willful violation of section 6068, subdivision (d). We affirm the hearing judge's finding there is no clear and convincing

evidence[18] that Hubbard made the specific alleged misrepresentation in the complaint because *the complaint* does not include that specific allegation. We also affirm the hearing judge's finding that Hubbard did make the alleged misrepresentations in the summary judgment motion.

Count Two alleges that, by making the same false statement in writing when he knew or was grossly negligent in not knowing the statement was false, Hubbard committed an act involving moral turpitude, dishonesty, or corruption in willful violation of section 6106. We affirm the judge's finding that Hubbard is culpable as charged.

As to these culpability findings, Hubbard contends that he "made an honest mistake and . . . appropriately relied on information from his client and information contained in his file." We reject his argument for the reasons detailed below.

Our analysis begins with the November 5 Order. In general, "civil findings are not, by themselves, dispositive of the issues in a disciplinary case. [Citations.]" (*In the Matter of Lais* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112, 117.) However, after independently evaluating Judge Gutierrez's findings, we accord them a strong presumption of validity because they are clearly supported by substantial evidence. (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 947; *In the Matter of Kittrell* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195, 206.)

In ruling on the sanctions motion, Judge Gutierrez expressly considered Vogel's opposition drafted by Hubbard, and heard oral argument. The dispositive issue before him was whether Vogel's and his counsel's misrepresentations rose to the level of bad faith—an issue substantially similar to the charges in Counts One and Two. The November 5 Order reflects that Judge Gutierrez applied relevant decisional law and thoroughly and carefully arrived at his factual determinations. He also evaluated the "honest mistake" defense that Hubbard presents

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[18] Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

here in the first instance and at a time much closer to the events than we are now. He rejected it, and itemized the inconsistencies and contradictions that he found undermined such a claim. Further, Judge Gutierrez found that Hubbard was personally dishonest when he filed a summary judgment motion that contained misstatements.[19] The Ninth Circuit affirmed his order, and we do not second-guess the findings. (See *In the Matter of Lais*, *supra*, 4 Cal. State Bar Ct. Rptr. at p. 117 [State Bar Court may rely on appellate opinion to which attorney was party as conclusive legal determination of civil matters "which bear a strong similarity, if not identity, to the charged disciplinary conduct"].)

As for Hubbard's reliance on Vogel's testimony in this proceeding, Vogel did not present a consistent or coherent version of events; his hearing testimony departed significantly from his deposition testimony and declaration in the Vogel action and is notably unsupported by corroborating documentary evidence. Hubbard's complaint that the hearing judge failed to make certain specific findings, including credibility determinations, is also unavailing. While the hearing judge may not have made an express credibility finding regarding Vogel's testimony, he implicitly found that testimony not credible because he rejected Hubbard's claim of mistake and did not find that Vogel had visited the restaurant prior to filing the Vogel action. (See *McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032 [hearing judge best suited to resolve credibility questions "because [he] alone is able to observe the witnesses' demeanor and evaluate their veracity firsthand"].) This is in accord with Judge Gutierrez's findings. Thus, we find that

[19] Judge Gutierrez found: "Counsel attempted to deceive Defendant and the Court on such a material matter, *to wit*, Plaintiff's standing to bring the instant lawsuit. . . . Counsel attempted to deceive Defendant and the Court not just once, but multiple times." (Italics in original.)

Vogel's testimony in this proceeding is insufficient to support Hubbard's claim that he acted due to an "honest mistake."[20]

In sum, Hubbard signed and filed the summary judgment motion, which contained numerous misrepresentations that he knew to be false, for the purpose of misleading the district court on the dispositive issue of Vogel's standing to sue, thereby violating section 6068, subdivision (d) (Count One), and committing an act of moral turpitude, in violation of section 6106 (Count Two). (*Grove v. State Bar* (1965) 63 Cal.2d 312, 315 [moral turpitude includes concealment as well as affirmative misrepresentations with no distinction to be drawn between "concealment, half-truth, and false statement of fact"].) We agree with the hearing judge that Count One is duplicative of Count Two, and, thus, we dismiss Count One with prejudice. (See *In the Matter of Maloney and Virsik*, *supra*, 4 Cal. State Bar Ct. Rptr. at pp. 786-787 [dismissing § 6068, subd. (d), on finding violation of § 6106].)

Counts Three, Four, and Five Dismissed

OCTC does not challenge the hearing judge's dismissal of the allegations that: (a) Hubbard failed to report the sanctions imposed by the Central District in the Vogel action (§ 6068, subd. (o)(3)); (b) Hubbard failed to cooperate in the disciplinary investigation in the Vogel matter (§ 6068, subd. (i)); and (c) Hubbard aided the unauthorized practice of law by allowing a paralegal to draft, sign, and file complaints without attorney review (rule 1-300(A)). We affirm and dismiss these counts with prejudice.

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[20] Having independently reviewed all arguments Hubbard raised, those not specifically addressed herein have been considered and are rejected as lacking merit. We also deny as procedurally improper Hubbard's request for judicial notice, in his opening brief on review, of the fact that his address of record on January 8, 2013 was in Chico, California and of the distance from his office to the restaurant. (Rules Proc. of State Bar, rule 5.156(D) [motion to augment or correct record on review "must be identified as such and filed and served as a separate pleading on the date the appellant's opening brief is due to be filed"].)

V. SERIOUS AGGRAVATION OUTWEIGHS MODERATE MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct[21] requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Hubbard to meet the same burden to prove mitigation. The hearing judge found two aggravating circumstances and three mitigating circumstances. We adopt some of these findings and find more aggravation and less mitigation.

A. Aggravation

1. Multiple Acts

The hearing judge found Hubbard's multiple acts of misconduct to be an aggravating circumstance. We agree and assign this factor moderate weight because the misconduct occurred in three separate matters and involved dishonesty toward two different federal courts and toward opposing counsel. (Std. 1.5(b); see *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646-647 [three instances of misconduct considered multiple acts].)

2. Significant Harm

The hearing judge correctly found that Hubbard's misconduct significantly harmed the opposing parties in the Plaza Bonita and Vogel actions, as well as Hubbard's client, Vogel,[22] and the court in the Vogel action. (Std. 1.5(j).) Although the judge did not assign an aggravating weight to such harm, we find it merits significant weight.

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[21] Effective July 1, 2015, the standards were revised and renumbered. Because these requests for review were submitted for ruling after that date, we apply the revised version of the standards, and all further references to standards are to this source.

[22] Like the hearing judge, in making this finding, we are not unmindful of Judge Gutierrez's conclusion that Vogel was a willing and knowledgeable participant in the bad faith tactics and efforts to deceive.

3. No Bad Faith

The hearing judge did not find bad faith to be an aggravating factor.[23] (Std. 1.5(d).) We agree because our culpability and other aggravation findings already account for the misconduct upon which OCTC bases its claim for aggravation. (*In the Matter of Duxbury* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61, 68 [where factual findings used to find culpability, it is improper to again consider in aggravation].)[24]

4. Indifference

Although the hearing judge did not find this aggravating factor, we find it and assign it moderate weight. (Std. 1.6(k) [indifference toward rectification or atonement for consequences of misconduct].) Judge Lorenz's findings that Hubbard committed misconduct in the Plaza Bonita action put Hubbard on notice of his ethical duties as an attorney, yet he soon thereafter committed similar dishonest misconduct in the Vogel action. Hubbard's actions demonstrate his lack of insight and failure to learn from past misconduct. (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 ["The law does not require false penitence. [Citation.] But it does require that the respondent accept responsibility for his acts and come to grips with his culpability. [Citation.]"].)

B. Mitigation

1. No Prior Record of Discipline

The absence of any prior record of discipline over many years of practice coupled with present misconduct that is not likely to recur is a mitigating circumstance. (Std. 1.6(a).) The hearing judge found that Hubbard's more than 32 years of discipline-free practice "is entitled to

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[23] We reject Hubbard's claim that he is entitled to mitigation for good faith. He did not establish such a mitigating circumstance by clear and convincing evidence. (Std. 1.6(b) [good faith belief that is honestly held and objectively reasonable is mitigating].)

[24] For the same reason, we reject OCTC's urging that we find aggravation for pattern of misconduct (std. 1.5(c)), misrepresentation (std. 1.5(e)), concealment (std. 1.5(f)), and overreaching (std. 1.5(g)).

significant weight in mitigation even though his misconduct here was serious." The judge also found that although "there have now been two cases where [Hubbard] has been found culpable of significant misconduct during his 30+ years of practice, it must be expected that [Hubbard] will take to heart the lessons underlying the imposition here of substantial discipline here [*sic*] and that he will fastidiously avoid any future violations of his professional obligations."

Given Hubbard's indifference, we do not adopt the judge's conclusion. Further, since Hubbard acted dishonestly in two unrelated matters, his misconduct was not aberrational or unlikely to recur. (See *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029 [when misconduct is serious, long record without discipline is most relevant when misconduct is aberrational].) We therefore assign only minimal mitigating weight for Hubbard's lack of prior discipline. (See *In the Matter of Reiss* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206, 218 [no mitigation for 13-year discipline-free record where attorney engaged in 10-year pattern of dishonesty and serious misconduct, did not prove significant mitigation or demonstrate rehabilitation, and failed to accept responsibility for wrongdoing].)

2. Cooperation with State Bar

Hubbard is entitled to mitigation credit if he shows spontaneous cooperation to the victims of his misconduct or to the State Bar. (Std. 1.6(e).) Like the hearing judge, we assign limited mitigation for Hubbard's cooperation with OCTC at trial. He stipulated to the admissibility of many exhibits, to limited and easily provable facts, and to culpability in the Bhullar matter. His cooperation assisted OCTC's prosecution of the case. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more mitigating weight accorded when culpability as well as facts admitted].)

3. Good Character

Extraordinary good character attested to by a wide range of references in the legal and general communities who are aware of the full extent of the misconduct is entitled to mitigation credit. (Std. 1.6(f).) Hubbard presented good character testimony from a number of individuals, including multiple clients and seven attorneys (several of whom had opposed Hubbard in multiple matters). The hearing judge found Hubbard is entitled to mitigation credit, but did not assign a specific weight. While the witnesses testified to having a positive opinion of him, their testimony was not fully informed, did not offer unqualified endorsements, was of a limited nature and quality, and, thus, did not prove Hubbard possessed "extraordinary good character." Further, the witnesses did not constitute a wide range of references from the legal and general communities. We therefore find that Hubbard's character evidence merits modest mitigating credit. (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [character testimony from attorneys is valuable given their "strong interest in maintaining the honest administration of justice"]); *In the Matter of Kreitenberg* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469, 476-477 [character evidence entitled to limited weight where it was not from wide range of references]; *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387 [three attorneys and three clients did not constitute broad range of references].)

4. No Mitigation for Remorse

Hubbard is not entitled to mitigation credit for the efforts he has taken since he committed misconduct because his actions do not address the misconduct. (Std. 1.6(g) [prompt objective steps demonstrating spontaneous remorse and recognition of wrongdoing and timely atonement are mitigating circumstance].) Though he purchased new servers to remedy the calendaring problem he says gave rise to the sanctions in the Bhullar action, Hubbard was not

found culpable of making a calendaring mistake, but of failing to report judicial sanctions. Similarly, that he promptly filed a Notice of Death of his father in the Plaza Bonita action does nothing to address the found misconduct—making material misrepresentations to a federal judge. And, with respect to the procedures he changed in reaction to the "mistakes" he made in the Vogel action, we have found that he acted intentionally and dishonestly. A change in office procedures is not a reflection of the wrongdoing that occurred.[25]

VI. DISCIPLINE[26]

Our disciplinary analysis begins with the standards and, although they are not binding, we give them great weight to promote consistency. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Importantly, the Supreme Court has instructed us to follow the standards "whenever possible" (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11), and also to look to comparable case law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.)

Standard 2.11 is most apt as it addresses Hubbard's acts of moral turpitude. It provides that "[d]isbarment or actual suspension is the presumed sanction for an act of moral turpitude, dishonesty, fraud, corruption, intentional or grossly negligent misrepresentation, or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice of law."[27]

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[25] We also reject as not supported by the record Hubbard's request for "substantial mitigation" for alleged misconduct by OCTC in this matter.

[26] The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession; to preserve public confidence in the profession; and to maintain high professional standards for attorneys. (Std. 1.1.)

[27] Also applicable is standard 2.12(b), which provides that reproval is the presumed sanction for a violation of the duties required of an attorney under section 6068, subdivision (o). However, we apply the standard calling for the most severe sanction. (Std. 1.7(a).)

Unquestionably, Hubbard's misconduct was serious. His dishonesty in the Vogel action harmed his client, the opposing party, and the federal court in which the litigation was proceeding. Similarly, his misconduct in the Plaza Bonita action misled defendants, vexatiously multiplied the proceedings, and delayed its conclusion. Moreover, all of Hubbard's misconduct is directly related to the practice of law since his misrepresentations were to opposing counsel and federal judges.

Given the broad range of discipline provided in standard 2.11 (disbarment or actual suspension), we also consult case law. No case is directly analogous to Hubbard's circumstances. The hearing judge focused on three cases that he stated involved misconduct "comparable" to Hubbard's misconduct in the Plaza Bonita action: *Hallinan v. State Bar* (1948) 33 Cal.2d 246 (30-day actual suspension where attorney falsely led opposing counsel to believe client personally signed settlement papers; also obtained acknowledgment of signature in improper manner); *Aronin v. State Bar* (1990) 52 Cal.3d 276 (nine-month actual suspension for multiple acts of misconduct, including improperly signing client's name to verifications); and *In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211 (stayed suspension with no actual suspension where attorney concealed fact that client had died from judge, but not opposing counsel, at settlement conference).

For its part, OCTC urges that we look to *In the Matter of Field* (Review Dept. 2010) 5 Cal. State Bar. Ct. Rptr. 171 (four-year actual suspension and proof of rehabilitation where attorney committed multiple acts of dishonesty, including to court, over a 10-year period as deputy district attorney), *Rodgers v. State Bar* (1989) 48 Cal.3d 300 (two-year actual suspension where attorney entered into business transaction with uninformed client, obtained interest adverse to client, commingled client funds, and dishonestly concealed wrongful conduct, including from probate court), and *In the Matter of Hertz* (Review Dept. 1991) 1 Cal. State Bar

Ct. Rptr. 456 (two-year actual suspension where attorney deceived opposing counsel, courts, and State Bar investigator after improperly disbursing $15,000 in entrusted funds, including $5,000 to himself as fees).

And Hubbard contends that "the cases factually closest to this one" are *In the Matter of Jeffers*, *supra*, 3 Cal. State Bar Ct. Rptr. 211 (stayed suspension with no actual suspension) and *Drociak v. State Bar* (1991) 52 Cal.3d 1085 (30-day actual suspension where attorney used pre-signed verifications for dead client).

Our own review of Supreme Court cases involving similar attorney dishonesty to courts discloses a wide range of discipline. (See, e.g., *Grove v. State Bar*, *supra*, 63 Cal.2d 312 [public reproval where attorney with previous private reproval intentionally misled judge into believing opposing party had defaulted]; *Bach v. State Bar* (1987) 43 Cal.3d 848 [60-day actual suspension where attorney intentionally misled judge about producing his client in mediation hearing]; *Arm v. State Bar* (1990) 50 Cal.3d 763 [18-month actual suspension where attorney with three prior disciplines, including 60-day actual suspension, misled court about impending disciplinary suspension during further hearing of matter].)[28]

Overall, we find that Hubbard's misconduct is more serious than in the cases where less than a one-year actual suspension was imposed because he was dishonest to a court in *two* different matters, and he made misrepresentations to the court in the Vogel action *after* having been sanctioned in the Plaza Bonita action. Indeed, honesty is critically important in the legal

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[28] Our further research revealed that California's case law involving attorney dishonesty to courts (showing wide range of discipline imposed) is consistent with that of other states. (See, e.g., Frohnen & Eck, *Whom Do You Trust? Lying, Truth Telling, and the Question of Enforcement* (2009) 27 Quinnipiac L.Rev. 425, 431, 463, fn. 9 [survey of bar journals from 23 states included review of 116 cases involving lying to courts, which showed wide range of imposed discipline from informal discipline to disbarment]; Note, *An Examination of the Uniformity (or Lack Thereof) of Attorney Sanctions* (2001) 14 Geo. J. Legal Ethics 1059, 1059, 1080 [survey of sanctions for perjury and false statements to courts in Florida, Illinois, New York, and District of Columbia revealed wide range of issued sanctions, no clear pattern of uniformity, and lack of uniformity results from use of case-by-case analysis].)

profession. (*In re Menna* (1995) 11 Cal.4th 975, 989.) Yet, Hubbard's case—albeit serious—is less aggravated than: *Field*, which involved misconduct by a prosecutor resulting in a four-year suspension; *Arm*, which involved the attorney's fourth discipline and resulted in an 18-month suspension; *Hertz*, where a two-year suspension was imposed on an attorney who lied to opposing counsel, the courts, and the State Bar after improperly disbursing entrusted funds; and *Rodgers*, which involved an attorney who was suspended for two years for concealing wrongful conduct from the probate court, among other wrongdoing. Accordingly, given the robust body of case law involving similar or worse acts of attorney dishonesty, we find the appropriate level of discipline here is an actual suspension ranging from six to 18 months.

Guided by the case law, all relevant factors, and the range of discipline suggested by standard 2.11, we recommend that Hubbard be suspended for a lengthy period of time. Though a one-year suspension is serious discipline for an attorney with no prior record, we find it is warranted here.[29] In addition, we recommend that Hubbard be required to prove his rehabilitation at a hearing in the State Bar Court before his actual suspension terminates—a heavy but necessary burden given his persistent claim, as recently as oral argument before us, that he was culpable only of "mistakes." (*In re Morse* (1995) 11 Cal.4th 184, 209 [attorney's "unwillingness even to consider the appropriateness" of his behavior "went beyond tenacity to truculence"]; see *In the Matter of Luis* (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 737, 742-743 [reinstatement hearing offers public protection through formal proceeding designed to ensure moral fitness and legal learning before attorney permitted to return to practice of law].)

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[29] We recognize that the length of the above-recommended actual suspension is the same as that imposed by the Southern District in the Plaza Bonita action, which was based solely on Hubbard's misconduct in that matter. In this disciplinary proceeding, we have considered his additional misconduct, as well as all aggravating and mitigating circumstances (see stds. 1.7(b), 1.7(c)). We note that our recommendation is a more serious sanction than that which the Southern District imposed because the federal court's suspension only precluded Hubbard from appearing in that one federal district court, whereas discipline in the State Bar Court prevents Hubbard from practicing law anywhere in California.

VII. RECOMMENDATION

For the foregoing reasons, we recommend that Lynn Hubbard III be suspended from the practice of law for two years, that execution of that suspension be stayed, and that Hubbard be placed on probation for three years on the following conditions:

1. He must be suspended from the practice of law for a minimum of the first year of the period of his probation and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. (Std. 1.2(c)(1).)

2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.

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

4. Within 30 days after the effective date of discipline, he must contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation. Upon the direction of the Office of Probation, he must meet with the probation deputy either in person or by telephone. During the period of probation, he must promptly meet with the probation deputy as directed and upon request.

5. He 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, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 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, he must answer fully, promptly, and truthfully, any inquiries of the Office of Probation directed to him personally or in writing, relating to whether he is complying or has complied with the conditions contained herein.

7. Within one year after the effective date of the discipline herein, he must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he shall not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the period of probation, if he has

complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

VIII. PROFESSIONAL RESPONSIBILITY EXAMINATION

We further recommend that Hubbard be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year of the effective date of the Supreme Court order in this matter, or during the period of his actual suspension, whichever is longer, and to provide satisfactory proof of such passage to the Office of Probation within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

IX. RULE 9.20

We further recommend that Hubbard 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.

X. COSTS

We further recommend that costs be awarded to the State Bar in accordance with section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

HONN, J.

WE CONCUR:

PURCELL, P. J.

STOVITZ, J.*

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* Retired Presiding Judge of the State Bar Court, serving as Review Judge Pro Tem by appointment of the California Supreme Court.

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 August 4, 2016, I deposited a true copy of the following document(s):

OPINION FILED AUGUST 4, 2016

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:

SAMUEL C. BELLICINI
SAMUEL C. BELLICINI, LAWYER
1005 NORTHGATE DR # 240
SAN RAFAEL, CA 94903

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

CYDNEY T. BATCHELOR, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 4, 2016.

Jasmine Guladzhyan
Case Administrator
State Bar Court