

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of) Case No.: **12-C-12050**
)
MICHAEL KENT JOHNSON,) **DECISION**
)
Member No. 210069,)
)
A Member of the State Bar.)

Introduction¹

This contested hearing is based upon the conviction of respondent **Michael Kent Johnson** of a misdemeanor violation of Penal Code § 182, subd. (a)(1)/Civil Code § 2944.7, unlawfully conspiring to claim, demand, charge, collect, or receive upfront fees for loan modification services. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) was represented in this proceeding by Senior Trial Counsel Treva Stewart. Respondent was represented by Howard Melamed.

For the reasons stated below, the court finds that the facts and circumstances surrounding respondent's commission of the offense do not involve moral turpitude, but do constitute other misconduct warranting discipline. After considering the facts and the law, the court recommends that respondent be suspended from the practice of law for a period of one year, that execution of that suspension be stayed and that respondent be actually suspended from the practice of law for 30 days.

¹ 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.

Significant Procedural History

On July 27, 2012, the Review Department of the State Bar Court issued an order referring this matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed if the Hearing Department finds that the facts and circumstances surrounding respondent's criminal violation involved moral turpitude or other misconduct warranting discipline.

On August 7, 2012, the State Bar Court issued and properly served a Notice of Hearing on Conviction on respondent. Respondent filed a response on August 16, 2012.

An eight-day hearing was held on February 13, 14, 15, and 22, 2013; and March 4, 7, 13, and 14, 2013. Following closing arguments, the case was submitted on March 14, 2012.

Findings of Fact and Conclusions of Law

Respondent's culpability in this proceeding is conclusively established by the record of his conviction. (Bus. & Prof. Code, § 6101, subd.(a); *In re Crooks* (1990) 51 Cal.3d 1090, 1097.) Respondent is presumed to have committed all of the elements of the crimes of which he was convicted. (*In re Duggan* (1976) 17 Cal.3d 416, 423; *In the Matter of Respondent O* (Review Dept. 1933) 2 Cal. State Bar Ct. Rptr. 581, 588.)

A. Jurisdiction

Respondent was admitted to the practice of law in California on December 6, 2000, and has been a member of the State Bar of California at all times since that date.

B. Findings of Fact

1. Respondent's Conviction

Pursuant to a felony indictment filed March 7, 2012, in the Sacramento County Superior Court, respondent was charged with one felony violation of Penal Code § 182, subd. (a)(1)/Civil Code § 2944.7 (conspiracy to claim, demand, charge, collect, or receive upfront fees for loan

modification services in violation of Civil Code § 2944.7). Respondent was also charged with 19 felony violations of Penal Code § 487, subd. (a) (grand theft of personal property).

On May 17, 2012, respondent entered into a plea of nolo contendere to a misdemeanor violation of Penal Code § 182, subd. (a)(1)/Civil Code § 2944.7. The overt acts that constituted the conspiracy were the creation and use of manipulative fee agreements in order to collect upfront fees from home owners and yet give the appearance of compliance with Civil Code § 2944.7, and collecting upfront fees for loan modifications from Cecilia Masinas, Jo and Edward Boe, Denise Flinn, Brett Hopkins, Howard and Jo Ann Lytle, and Michelle Gilson. The remaining charges, including the 19 counts of grand theft, were dismissed.

2. Facts and Circumstances Surrounding Respondent's Conviction

After being admitted to practice law, respondent worked in the Law Offices of Ronnie Deutsch. While at the Law Offices of Ronnie Deutsch, respondent's work dealt mainly with tax issues. Respondent left the law offices of Ronnie Deutsch around the same time period that the Law Office of Ronnie Deutsch began to experience trouble with the State Bar.

Respondent interviewed with Flahive Law Offices (Flahive) after seeing a posting on Craigslist. Flahive was owned and managed by the husband and wife team of Greg and Cynthia Flahive.² On July 12, 2009, respondent was hired to work at Flahive. At the time respondent was hired, his primary responsibility was to handle Flahive's large bankruptcy caseload.

Prior to respondent's hiring, Flahive had also taken on a large number of loan modification cases, however, it was not until October 2009, that a formal organized loan modification department was created within Flahive.

Around the same time Flahive took on a large number of bankruptcy and loan modification cases, California legislators sought to cure abuses in the loan modification industry.

² Respondent knew of Greg Flahive because Greg Flahive had worked at the Law Offices of Ronnie Deutsch. Moreover, respondent had gone to law school with Cynthia Flahive.

On October 11, 2009, California Senate Bill no. 94 (SB 94) became effective. SB 94 provided two safeguards for borrowers employing the services of someone to help with a loan modification. First, loan modification professionals³ were required to provide notice to borrowers that it is not necessary to use a third party to negotiate a loan modification (codified as Civ. Code, § 2944.6).⁴ And second, loan modification professionals were prevented from charging or receiving pre-performance compensation, i.e., restricting the collection of fees until all loan modification services are completed (codified as Civ. Code, § 2944.7).⁵

The new legislation was designed to “prevent persons from charging borrowers an up-front fee, providing limited services that fail to help the borrower, and leaving the borrower worse off than before he or she engaged the services of a loan modification consultant.” (Sen. Com. on Banking, Finance, and Insurance, Analysis of Sen. Bill No. 94 (2009 Reg. Sess.) as amended Mar. 23, 2009, p. 7.) A violation of either Civil Code provision constitutes a

³ The court loosely uses the term “loan modification professionals” to describe any individual or entity offering to negotiate or perform mortgage loan modification for compensation paid by the borrow.

⁴ Civil Code § 2944.6 requires that before entering into a fee agreement, a person attempting to negotiate or arrange a loan modification must provide the borrower the following information in 14-point font “as a separate statement:

It is not necessary to pay a third party to arrange for a loan modification or other form of forbearance from your mortgage lender or servicer. You may call your lender directly to ask for a change in your loan terms. Nonprofit housing counseling agencies also offer these and other forms of borrower assistance free of charge. A list of nonprofit housing counseling agencies approved by the United States Department of Housing and Urban Development (HUD) is available from your local HUD office or by visiting www.hud.gov.

⁵ The relevant portion of Civil Code § 2944.7 reads: (a) Notwithstanding any other provision of law, it shall be unlawful for any person who negotiates, attempts to negotiate, arranges, attempts to arrange, or otherwise offers to perform a mortgage loan modification or other form of mortgage loan forbearance for a fee or other compensation paid by the borrower, to do any of the following: (1) Claim, demand, charge, collect, or receive any compensation until after the person has fully performed each and every service the person contracted to perform or represented that he or she would perform.

misdemeanor (Civ. Code, §§ 2944.6, subd. (c), 2944.7, subd. (b)), and is cause for imposing attorney discipline (§ 6106.3).

Before SB 94 passed, Flahive charged a flat fee for their legal loan modification services. When the new laws took effect, Greg Flahive changed the fee agreements as they related to loan modifications. Now there were multiple fee agreements for loan modifications cases. The multiple contracts were designed so that Flahive could collect fees before modification services were complete. For example, the first part of the fee agreement called for Flahive to contact the bank and request a restructuring of the loan. After that notification, the Flahive services would be deemed fully performed and satisfied and the client had to pay for that service. Once a trial workout payment plan was established, the client to pay for those services. Finally, the client would be required to pay additional fees and execute a separate agreement in writing if the client wanted Flahive to monitor and supervise the client's trial workout payments with the bank.

Once the bank notified the client or Flahive on its decision to accept or reject the client's request, Flahive's services were concluded. The fee agreements also made it clear that Flahive was not required to investigate and review most of the methods used to restructure the client's mortgage (methods included, loan modification, term extension, rate reduction, balance reduction, forbearance, agreement for deed in lieu, agreement for short payoff, repayment plan, and loan restructure).

Respondent did not write the new fee agreements. The fee agreements were designed and written by Greg Flahive.⁶ Greg Flahive thought that despite the passage of SB 94, codified in the Civil Code as § 2944.7, his office could "unbundle" each service in loan modification cases and charge separately for each service after it was performed. Greg Flahive told

⁶ It was clear from the testimony that Greg Flahive wrote all fee agreements independent of any attorneys working in the Flahive law firm. The only fee agreements he did not write were those dealing with estate planning which were handled by Cynthia Flahive.

respondent he had an ethics opinion that confirmed his belief that the Flahive fee agreement was in compliance with the new law. Greg Flahive also had an office meeting where he explained the new loan modification fee agreements and how and why these new fee agreements were in compliance with the new law.⁷

The issue in this case is the extent of the role respondent played in Flahive, as it related to its loan modification cases. Clearly, respondent had some role in the loan modification cases as he pled no contest to a misdemeanor violation of conspiracy to violate Civil Code § 2944.7. The extent of his involvement determines whether his involvement constitutes moral turpitude or other misconduct warranting discipline.

The evidence is clear that Greg and Cynthia Flahive owned and operated Flahive. Respondent was not a shareholder in Flahive. Flahive had business and trust accounts, but only Greg and Cynthia Flahive had check writing authority, as their names were the only ones on the accounts.

Maggie Krell, the prosecuting attorney general on the case, testified that she had no information that respondent controlled any of Flahive's business or trust accounts or that respondent had check writing authority. Nor did respondent handle any incoming client payments. Greg and Cindy Flahive made the decision as to who was hired and fired in Flahive. Greg Flahive is the only person who made a decision as to which clients were entitled to refund checks. Moreover, respondent did not participate in any Flahive marketing strategies such as radio advertisements and talk shows.

There is conflicting testimony as to what extent respondent was the managing attorney of Flahive and the extent to which he was involved in the loan modification department of the firm. Barry Katz (Katz), an intake officer at Flahive in January 2010, testified that respondent was the

⁷ Respondent did not independently research this issue.

managing attorney at the firm. Katz, however, noted that respondent did not have primary responsibility for the loan modification department and that respondent's primary responsibility was in the bankruptcy department. Katz further testified that he found respondent always put the client first and, when it came to bankruptcy cases, respondent was always honest. The court found the testimony of Katz and the other former employees of Flahive to be credible, unless otherwise noted.

Ben Graber (Graber), a case manager for Flahive from May to December 2009, testified that Susan Dodds (Dodds) was the loan modification supervisor. Graber, however, acknowledged that respondent was Dodds's supervisor and that respondent had his own office in the firm. Graber also testified that once a week there was a meeting regarding loan modifications and that respondent ran those meetings. Graber testified that, in his opinion, respondent's objective was to improve outcomes for Flahive clients.

Julio Hernandez (Hernandez), who is currently in-house counsel for Liberty Mutual, worked at Flahive from February to October 2009. Hernandez testified that while respondent was the managing attorney, Greg Flahive had all the decision-making authority. Hernandez saw respondent's responsibility as managing attorney as an intermediary between the staff and Greg Flahive. Hernandez believed Ursula Walker (Walker) and Deborah Moore (Moore), who were paralegals, ran the loan modification department and they were supervised by Susan Dodds, once she passed the bar examination.

Moore was employed as a paralegal with Flahive from February 2010 to January 2011. She worked in the loan modification department. Dodds was her supervisor. Moore testified that she went to respondent for advice after Dodds left the firm, but that Greg Flahive made all the decisions for the firm. Moore also testified that when a client requested a refund, the refund request would go first to respondent and then to Greg Flahive.

Andrew Grossman (Grossman), an attorney who was employed by Flahive from June 2009 to February 2010, testified that all fee agreements were created by Greg Flahive, except the estate planning fee agreements. He said that Dodds was in charge of the loan modification department and that respondent was responsible for overseeing the support staff. Although Grossman saw respondent as the person who had the responsibility of managing the firm, he believed that respondent had no real authority. Respondent's specific responsibility was running the bankruptcy department and he was Grossman's direct supervisor.

The only person who testified that respondent was specifically in charge of the loan modification department was Dodds. Despite testimonial and documentary evidence to the contrary, Dodds claims that she was never the supervisor of the loan modification department. The court finds reason to doubt the credibility of Dodds's testimony on this subject.

Flahive was a poorly run law firm using illegal loan modification fee agreements after the passage of SB 94. Kenneth Saunders (Saunders), who was a bankruptcy consultant for Flahive from May 2009 to December 2010, said one problem with Flahive was that they had a bankruptcy caseload of 400 cases when in order to do a good job a law firm should have no more than 20-40 bankruptcy cases a month.⁸ Cynthia and Greg Flahive were rarely seen in the law office and they rarely, if at all, worked on individual cases.

Based on the evidence, the court concludes that respondent was a managing attorney in Flahive; however, he was a managing attorney in name only. Respondent had little to no decision making authority, as he had to run everything through Greg Flahive.

As the managing attorney in Flahive, respondent had a responsibility to see that the Flahive contracts were in compliance with SB 94. He admits that he functioned as a manager

⁸ Saunder was a US Trustee for 19 years in the Eastern District of California. He worked with respondent on bankruptcy cases. He never discussed loan modification cases with respondent.

and he was to be available to the staff. Respondent stated that Flahive told him that he had an ethics opinion that said that the contracts were in compliance, yet respondent never asked to see or read the opinion.

That being said, there is no evidence that respondent participated in any misrepresentations or false advertising schemes at Flahive. Respondent also did not control or have check writing authority over the bank accounts at Flahive. While respondent did plead no contest to conspiracy to commit the crime of taking upfront loan fees in loan modification matters, the 19 remaining grand theft charges were dismissed. Consequently, the court finds that the facts and circumstances surrounding respondent's May 17, 2012 misdemeanor violation of Penal Code § 182, subd. (a)(1)/Civil Code § 2944.7 do not involve moral turpitude, but do involve other misconduct warranting discipline.

Aggravation⁹

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

Respondent's misconduct involved six separate clients. Multiple acts of misconduct are an aggravating factor.

Significant Harm (Std. 1.2(b)(iv).)

Respondent's misconduct resulted in significant financial harm to his clients. Respondent's clients, who already were in a vulnerable financial position, were improperly forced to front retainer fees. As a result, some of these clients suffered significant financial harm.

⁹ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Mitigation

No Prior Record (Std. 1.2(e)(i).)

Respondent has no prior record of discipline over several years of practice. Respondent had been admitted to practice law in California for approximately nine years before the misconduct in this matter. Respondent's nine years of practice without prior discipline warrant some consideration in mitigation.

Good Character (Std. 1.2(e)(vi).)

The following witnesses testified regarding respondent's integrity and good character. (Std. 1.2(e)(vi).) Each was very supportive of respondent and aware of his misconduct.

John Cassinat (Cassinat) is an attorney, who was admitted in 1987. He is a bishop with the Mormon Church, and has known respondent for ten years. Respondent is a counselor at the church. As a counselor, respondent deals with highly confidential matters and manages the financial contributions made by members of the ward. Respondent spends at least six hours a week completing assignments as a counselor to the bishop. Respondent is also a stake president within the church. As a stake president, respondent is involved in Boy Scouting activities. According to Cassinat, respondent has a reputation of being very honest.

Constance Rozier is a paralegal who worked with respondent on bankruptcy cases. She says respondent always put the client's interest first. He was always truthful and he turned clients down when he thought it was not in their best interest to file for bankruptcy. She considers respondent to be a credit to the profession.

Ernesto Sayson (Sayson) was one of respondent's bankruptcy clients. He was a manager at Tower Records for 15 years and had 60 employees where he did all the hiring and firing. As a result, Sayson believes he can read people. His read on respondent is that he is very honest and

caring. He is respondent's neighbor and trusts respondent with the keys to his house. Sayson has referred a number of people to respondent, including family members.

John Chandler (Chandler) is a bishop in the Mormon Church. He has known respondent for two years. All of the youth in a ward are assigned a counselor. Respondent is now a counselor in his ward. Respondent spends at least 12 hours a week doing community work. Part of his community work is being a Boy Scout leader. In Chandler's opinion, respondent has a reputation for honesty and being a man of integrity.

Jarred Lamar Jensen is a risk analyst for a supermarket chain. He has known respondent for about seven years. Respondent handled his bankruptcy. He sees respondent about once a month, and has referred clients to respondent. He believes respondent is man of integrity and honesty.

Jana Reyes (Reyes) is a licensed realtor with a certification in distressed property. Reyes has worked with respondent on matters involving bankruptcy. She has found respondent to be an amazing listener and very compassionate. She has witnessed numerous examples of where respondent helped people in terms of bankruptcy. Those clients raved about the quality of legal services and appreciated how respondent took the time to listen. Reyes finds respondent to be reliable and a man of integrity.

Erin Johnson is respondent's wife. Respondent has been a counselor to two bishops, and spends a lot of time with the church. He has taught classes for children in the church and commits 10-15 hours a week to Boy Scouting.

Christian Green (Green) is in-house counsel for the CNA insurance company. Green has known respondent for nearly 20 years. Green considers respondent's character to be exceptional. He's found respondent to be kind, patient, and trustworthy. Green feels respondent genuinely wants to help people, and testified that he would hire respondent.

Gary Eblin (Eblin) is a client who has been represented by respondent on multiple occasions. Eblin has found respondent to be honest and appreciates how respondent has always helped him weigh the pluses and minuses. Eblin also likes the way respondent does business and follows through. He has therefore referred his daughter to respondent.

In addition, several of respondent's former coworkers at Flahive testified in regard to respondent's integrity and good character. These former coworkers included Hernandez, Moore, Saunders, Grossman, Walker, and Gabriel Lullo.

Respondent's good character evidence warrants significant consideration in mitigation.

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

Respondent has shown remorse and a willingness to accept responsibility for his acts of misconduct. Respondent realizes that his interpretation of SB 94 was wrong and he had that understanding when he plead no contest in the criminal matter. Respondent's remorse and recognition of his wrongdoing warrants some consideration in mitigation.

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

Respondent pled no contest in the criminal matter and has cooperated with the attorney general with respect to Flahive. He spoke with the attorney general for at least two hours and gave them information pertinent to the running of the firm. The attorney general testified that she found respondent to be candid and accepting of some responsibility for allowing Flahive to continue operating. Respondent's candor and cooperation with the attorney general warrants some consideration in mitigation.

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

The court finds that respondent's conduct was not shrouded in bad faith. The absence of bad faith, however, does not mean respondent established good faith. "In order to establish good faith as a mitigating circumstance, an attorney must prove that his or her beliefs were both

honestly held *and* reasonable. [Citation.]” (*In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 653, italics added.) To conclude otherwise would reward an attorney for his unreasonable beliefs and “for his ignorance of his ethical responsibilities.” (*In the Matter of McKiernan* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420, 427.) Here, while respondent’s beliefs may have been honestly held, they were not reasonable. Although respondent is a managing attorney, he trusted Greg Flahive’s representations and did not independently research the validity and legality of Flahive’s business practices. He also never asked to see or read the ethics opinion that Greg Flahive allegedly relied on in writing his retainer agreement. Consequently, the court does not award mitigation for good faith.

Community Service

Service to the community is a mitigating factor. (*Schneider v. State Bar* (1987) 43 Cal.3d 784, 799) Respondent has an outstanding record of volunteer work, including his aforementioned church and Boy Scouting activities.¹⁰ Respondent’s community service warrants some consideration in mitigation.

Discussion

In determining the appropriate discipline to recommend in this matter, the court looks at the purposes of disciplinary proceedings and sanctions. Standard 1.3 provides that the primary purposes of disciplinary proceedings “are the protection of the public, the courts, and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

Standards 3.4 and 2.10 are applicable to the misconduct in this matter. Standard 3.4 provides that an attorney’s criminal conviction which does not involve moral turpitude, but does involve other misconduct warranting discipline, must result in a sanction as prescribed under the

¹⁰ Respondent’s Boy Scout activities are unrelated to his role as father because he has daughters who are not scouts.

standards for misconduct in original disciplinary proceedings appropriate to the extent and nature of the member's misconduct. Standard 2.10 is the most relevant standard, as it provides that culpability of a member of a violation of section 6106.3¹¹ shall result in reproof or suspension according to the gravity of the offense or the harm, if any, to the victim.

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.) As 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.)

The court also looked to the case law for guidance. While no case law is directly on point, the court found *In the Matter of Taylor* (Review Dept. November 9, 2012, No. 10-O-05171, et al., as modified January 9, 2013) 5 Cal. State Bar Ct. Rptr. ____ [2012 WL 5489045], to be somewhat helpful.

In *Taylor*, the attorney, in eight client matters, was found culpable of charging illegal fees in violation of section 6106.3. No moral turpitude was involved. In aggravation, the attorney committed multiple acts of misconduct, caused significant harm, and demonstrated indifference. In mitigation, the attorney presented good character evidence. The Review Department recommended that the attorney be suspended for a period of two years, with the execution stayed, and that he be placed on probation for two years including a six-month period of actual suspension and/until full payment of restitution.

The present case is similar to *Taylor* in that it involves a conviction stemming from a violation of Civil Code § 2944.7 and a similar number of clients. *Taylor*, however, involves

¹¹ Section 6106.3 applies to violations of Civil Code section 2944.7.

more aggravation and less mitigation than the present matter. Specifically, respondent has demonstrated remorse and recognition of his misconduct, while the attorney in *Taylor* demonstrated indifference and a lack of insight into the misconduct. Consequently, the court concludes that the present misconduct, as opposed to the misconduct in *Taylor*, is considerably less likely to reoccur.

Another significant difference between the present matter and *Taylor* is the roll that each of the attorneys played in the misconduct. Respondent, unlike the attorney in *Taylor*, did not develop and control the operation. Instead, respondent was more of a pawn, willing to trust the representations of Greg Flahive.

Consequently, the court finds appropriate a significantly lower level of discipline than that which was recommended in *Taylor*. That being said, respondent's willingness to go along with Greg Flahive's representations without using the research skills and critical thought that he was trained to use in law school, warrants at least some period of actual suspension.

Therefore, having considered the evidence, the standards, and the case law, the court concludes that, among other things, a 30-day period of actual suspension is sufficient to protect the public, the courts, and the legal profession.

Recommendations

Accordingly, it is recommended that respondent **Michael Kent Johnson**, State Bar Number 210069, be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that he be placed on probation for a period of two years¹² subject to the following conditions:

1. Respondent is suspended from the practice of law for the first 30 days of probation;

¹² The probation period will commence on the effective date of the Supreme Court's order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

2. Respondent must also comply with the following additional conditions of probation:

- i. During the period of probation, respondent must comply with the State Bar Act and the Rules of Professional Conduct of the State Bar of California;
- ii. Respondent must submit written quarterly reports to the State Bar's Office of Probation (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 he has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the first report will cover less than 30 days, the report must be submitted on the next following quarter date, and cover the extended period.

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

- iii. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation, which are directed to him personally or in writing, relating to whether he is complying or has complied with the conditions contained herein;
- iv. Within 10 days of any change, respondent must report to the Membership Records Office of the State Bar, 180 Howard Street, San Francisco, California 94105-1639, **and** to the Office of Probation, all changes of information, including current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;
- v. Within 30 days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with him 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;
- vi. Respondent must comply with all conditions of respondent's criminal probation and must so declare under penalty of perjury in any quarterly report required to be filed with the Office of Probation. If respondent has completed probation in the underlying criminal matter, or completes it during the period of her disciplinary probation, respondent must provide to the Office of Probation satisfactory documentary evidence of the successful completion of the criminal probation in the quarterly report due after such completion. If such satisfactory evidence is provided, respondent will be deemed to have fully satisfied this probation condition;

- vii. 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 passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School (Rules Proc. of State Bar, rule 3201); and
3. At the expiration of the period of this probation, if respondent has complied with all the terms of probation, the order of the Supreme Court suspending respondent from the practice of law for one year will be satisfied and that suspension will be terminated.

Multistate Professional Responsibility Examination

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

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.

Dated: July _____, 2013

Pat McElroy
Judge of the State Bar Court