

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case Nos.:12-N-10466; 12-O-10486
	)	(12-O-13749)-DFM
<b>JAMES WILLIAM BIEDEBACH,</b>	)	
	)	<b>DECISION INCLUDING DISBARMENT</b>
<b>Member No. 152980,</b>	)	<b>RECOMMENDATION AND</b>
	)	<b>INVOLUNTARY INACTIVE</b>
A Member of the State Bar.	)	<b>ENROLLMENT ORDER</b>
_____	)	

INTRODUCTION

Respondent **James William Biedebach** (Respondent), Member No. 152980, is charged here with four counts of misconduct. The counts include allegations that Respondent willfully violated (1) California Rules of Court, rule 9.20(c) <sup>1</sup> [failure to file timely compliance affidavit]; (2) rule 9.20(a) [failure to notify adverse party in pending matter of suspension]; (3) Business and Professions Code section 6068, subdivision (k) <sup>2</sup> [failure to comply with conditions of probation]; and (4) section 6106 [moral turpitude – misrepresentation].

The State Bar had the burden of proving the above charges by clear and convincing evidence. The court finds culpability and recommends discipline as set forth below.

<sup>1</sup> Unless otherwise noted, all future references to rule(s) will be to the California Rules of Court.

<sup>2</sup> Unless otherwise noted, all future references to section(s) will be to the Business and Professions Code.

## **PERTINENT PROCEDURAL HISTORY**

The Notice of Disciplinary Charges (NDC) was filed in this matter by the State Bar of California on August 1, 2012. On September 6, 2012, Respondent filed his response to the NDC.

An initial status conference was held in the matter on September 6, 2012. At that time, the case was given a trial date of November 29, 2012, with a one-day trial estimate.

On November 20, 2012, the State Bar filed a motion to amend the NDC. When the case was called for trial on November 29, 2012, the parties stipulated to the requested amendment, with the further agreement that the new allegations would be deemed denied without any additional responsive pleading by the Respondent. That stipulation was accepted by the court, and it was so ordered.

Trial was commenced and completed on November 29, 2012. The State Bar was represented at trial by Deputy Trial Counsel Anand Kumar. Respondent was represented at trial by Newton Kellam.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The following findings of fact are based on Respondent's response to the NDC, the stipulation of undisputed facts filed by the parties, and the documentary and testimonial evidence admitted at trial.

### **Jurisdiction**

Respondent was admitted to the practice of law in California on June 10, 1991, and has been a member of the State Bar at all relevant times.

**Case Nos. 12-N-10466/12-O-10486 [Rule 9.20 Compliance Issues]**  
**Case No. 12-O-13749 [Probation Violations]**

On May 27, 2011, Respondent entered into a Stipulation as to Facts and Disposition (Stipulation) with the State Bar of California in case Nos. 09-O-16183 and 10-O-07527. On June 22, 2011, the Hearing Department of the State Bar Court filed an Order approving the Stipulation and recommending to the California Supreme Court the discipline set forth in the Stipulation.

On October 19, 2011, the California Supreme Court filed Order Number S195346 (the Supreme Court Order) in State Bar Court case Nos. 09-O-16183 and 10-O-07527. Pursuant to the Supreme Court Order, Respondent was suspended from the practice of law for two years, stayed, and placed on probation for three years subject to the conditions of probation agreed to by Respondent in the Stipulation and recommended by the Hearing Department. Those conditions included the requirement that Respondent be actually suspended for the first 15 months of probation and they obligated Respondent: (1) to contact his assigned probation deputy to schedule a meeting to discuss the terms and conditions of his probation within 30 days from the effective date of discipline (i.e., on or before December 18, 2011); (2) to submit to the Office of Probation written quarterly reports each January 10, April 10, July 10 and October 10 of the three-year probationary period, stating under penalty of perjury whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all probationary conditions during the preceding calendar quarter or part thereof covered by the report; (3) to file with each quarterly report a certificate from either Respondent and/or a certified public accountant or other professional providing the information required by the Financial Conditions/Client Funds Certificate condition of probation; (4) to submit to the Office of Probation satisfactory proof of completion of no less than six hours of Minimum Continuing Legal Education (MCLE)

approved courses in general legal ethics within one year of the effective date of discipline (i.e., no later than November 18, 2012); and (5) to submit to the Office of Probation, no later than that same date, proof of Respondent's attendance and completion of the State Bar's Ethics School and its Client Trust Accounting School.

The Supreme Court Order also included an explicit requirement that Respondent comply with rule 9.20 by performing the acts specified in subdivisions (a) and (c) of the rule within 30 and 40 days, respectively, after the effective date of the Supreme Court Order.<sup>3</sup>

A copy of the Supreme Court Order was properly served by the Clerk of the Supreme Court on October 19, 2011, and was received by Respondent.

The order became effective on November 18, 2011, thirty days after it was filed. As a result, Respondent was obligated to comply with subdivision (a) of rule 9.20 no later than December 18, 2011, and was obligated to file an affidavit of compliance with the rule, pursuant to subdivision (c) of the rule, no later than December 28, 2011. He was also obligated as a condition of his probation to contact the Office of Probation on or before December 18, 2011, and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of his probation.

Respondent did not contact his probation deputy to schedule a meeting with her prior to the December 18, 2011 deadline for doing so.

Respondent did not file a compliance declaration or affidavit pursuant to rule 9.20(c) on or before the December 28, 2011 deadline.

Respondent's first quarterly report was due no later than January 10, 2012. He did not file any such report on or before that deadline.

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<sup>3</sup> These rule 9.20 obligations were also included in the Stipulation signed by Respondent.

On January 18, 2012, Respondent's probation deputy sent a letter to him, informing him that there was no record that he had filed the required rule 9.20(c) compliance affidavit, telling him that he remained obligated to file such an affidavit (even though it would nonetheless be late), and notifying him that he was being referred to the Office of the Chief Trial Counsel for further discipline.

On the following day, Respondent telephoned the probation deputy to ask what he needed to do to comply with rule 9.20. During the conversation, he was told that a prior letter, dated November 7, 2011, had been sent to him from the Office of Probation. He said that he had not received it. On the following day, January 20, 2012, the probation deputy sent another letter to Respondent, enclosing a copy of the November 7, 2012 letter and its many enclosures. In this January 20, 2012 letter, the probation deputy pointed out that Respondent had already failed to comply with the conditions of probation that he contact the Office of Probation to schedule a meeting before December 18, 2011, and that he file a quarterly report (including the supplemental statement required by the Financial Conditions probation condition) on or before January 10, 2012.

On January 20, 2012, the State Bar Court received and filed a purported 9.20(c) compliance affidavit from Respondent. However, the affidavit was defective because Respondent had left blank the portion of the form addressing the requirement in rule 9.20(c) that the compliance affidavit "must also specify an address where communications may be directed to the disbarred, suspended, or resigned member." Respondent was notified by the Office of Probation of the document's rejection via a letter dated January 24, 2012.

On February 2, 2012, Respondent signed and submitted to the Office of Probation his first quarterly probation report, which had been due on January 10, 2012. The report was

received by the Office of Probation on February 3, 2012. In this report, Respondent stated under penalty of perjury that he had complied with all provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the reporting period. It also included Respondent's certification that he had not possessed any client funds during the reporting period. This quarterly report form noted the future November 18, 2012 deadlines for Respondent to present proof that he had completed the State Bar's Ethics and Client Trust Accounting schools, and it inquired whether he had yet enrolled in either of those schools. It also noted the November 18, 2012 deadline for Respondent to complete the required six hours of MCLE ethics education. No information was provided by Respondent that he had signed up for either of the schools or completed any of the required MCLE classes.

On February 6, 2012, the probation deputy held by phone the required initial meeting with Respondent regarding compliance with his probationary conditions. In this phone conversation, the deputy discussed with Respondent the fact that his January 20, 2012 rule 9.20(c) compliance affidavit had been rejected.

More than two weeks later, on or about February 21, 2012, Respondent submitted a new rule 9.20 compliance affidavit, providing the required address for future communications. In this affidavit, Respondent stated that he did not represent any clients in pending matters as of the date upon which the Supreme Court Order was filed.

Respondent's second quarterly report, including the Financial Conditions compliance statement, was due on or before April 10, 2012. It was received by the Office of Probation on April 12, 2012. Although the report purported to have been signed on April 1, 2012, and was accompanied by a letter bearing a handwritten April 1, 2011 date, the Federal Express Overnight

envelope, in which the documents arrived, makes clear that the documents were not sent by Respondent until April 11, 2011, after the deadline had passed.

On the same day that the April 10 report was received by the Office of Probation, it was rejected by the Office of Probation as deficient. Respondent had neither checked the box signifying his compliance with his professional and probation obligations during the prior quarter nor provided a declaration stating the reasons for his non-compliance. On being told of this deficiency, he then returned a completed report, checking (inappropriately) the box signifying his compliance. Once again, no information was provided by Respondent in response to the inquiry in the form regarding whether Respondent had enrolled yet in the two required State Bar schools or had taken any of the MCLE classes.

On July 9, 2012, Respondent Express Mailed his Quarterly report, due on July 10, 2012, and on October 10, 2012, the Office of Probation received Respondent's quarterly report due on that same date. Once again, both forms inquired about whether Respondent had enrolled yet in the two State Bar schools and pointed out that his deadlines to complete those schools and take the six hours of MCLE classes was November 18, 2012. Respondent again provided no responsive information in either report.

The November 18, 2012 deadline for Respondent to present proof that he had completed the required six hours of MCLE ethics programs and the State Bar's Ethics and Client Trust Accounting schools passed without Respondent providing any evidence that he had completed any of these requirements.

**Count 1 - Rule 9.20(c) [Failure to File Timely Compliance Affidavit]**

A member, ordered by the Supreme Court to comply with rule 9.20, subdivision (c), must file with the Clerk of the State Bar Court, within 40 days after the effective date of the Supreme

Court's order, an affidavit showing that he or she has fully complied with the provisions of the rule. Respondent was required to have filed his rule 9.20(c) affidavit no later than December 28, 2011. Respondent did not file any affidavit of compliance within the time that he was required to do so. In fact, he did not file any affidavit of compliance until after he had been told by the Office of Probation on January 20, 2012, that the matter was being referred to the Office of the Chief Trial Counsel for possible disciplinary action. This failure by Respondent constituted a willful violation by him of rule 9.20 and the Supreme Court Order.

Respondent's contention, that his failure to comply with his 9.20(c) obligation should be excused because he did not receive the Office of Probation's November 7, 2011 letter, lacks merit. Respondent's duty to comply with rule 9.20(c), was in no way dependent on any action being taken by the Office of Probation to remind him of that duty. Respondent had signed a stipulation to discipline that explicitly stated that he was obligated to comply with rule 9.20 "and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court Order. He also received the Supreme Court Order, which was explicit in setting forth his rule 9.20(c) obligation. Nonetheless, he apparently took no steps to determine what the deadline was for him to comply with the rule. Nor did he make any effort to comply with subdivision (c) of the rule until after that deadline had passed.

Further, the Stipulation previously executed by Respondent included a condition of probation requiring Respondent to contact the Office of Probation within 30 days after the effective date of his discipline in order to schedule a meeting with his assigned probation deputy. This condition of probation was incorporated by reference into the Supreme Court Order. Had Respondent complied with this obligation, he would have doubtless learned of the earlier

November 7, 2011 letter and been reminded of the need to comply with rule 9.20(c) before the deadline for such compliance had expired. Given that Respondent also did not comply with this condition of probation, he is especially precluded from seeking to blame the Office of Probation for his rule 9.20(c) violation.

**Count 2 -Rule 9.20(a) [Failure to Notify Adverse Party in Pending Matter of Suspension]**

Pursuant to the Supreme Court Order and rule 9.20(a), Respondent was ordered to notify opposing counsel in any pending litigation, or in the absence of counsel, the adverse parties of his suspension and consequent disqualification to act as an attorney after the effective date of his suspension and to file a copy of the notice with the court, agency, or tribunal before which the litigation is pending for inclusion in the respective file or files.

Prior to the filing of the Supreme Court order, Respondent had been counsel of record in numerous pending cases, including *SEJ Investments v. Paul Michael* (the *Michael* matter), a case pending in the San Bernardino Superior Court. In anticipation of being suspended, Respondent took steps in these various cases to be replaced as counsel of record by other attorneys. In the *Michael* matter, he made arrangements in early October 2011 to be replaced as counsel of record by Newton Kellam. An appropriate substitution of attorneys was signed by Respondent and the client on October 3, 2011, and by attorney Kellam on October 4, 2011. Kellam's office then took responsibility for filing the substitution with the San Bernardino Superior Court. Respondent was subsequently informed by Kellam's office that the substitution had been filed.

Respondent did not notify the adverse party or the court in the *Michael* matter of his suspension pursuant to rule 9.20(a) because he had been formally replaced by attorney Kellam and understood that a substitution had already been filed with the superior court.

After the deadlines for compliance with Respondent's rule 9.20(a) requirement had passed, attorney Kellam apparently discovered that the substitution did not appear on the Superior Court's docket as having been filed by the Superior Court. As a result, he then took steps to make certain that the court record indicated that the substitution had been filed, which was finally accomplished, pursuant to the superior court's website docket, on January 11, 2012.

The State Bar alleges in the NDC that, because the substitution had not been effectively filed with the court by the Kellam office, Respondent violated his duty under rule 9.20(a) to notify the court and the opposing party of his suspension.

This court declines to find that Respondent's conduct constituted a willful violation by him of his duties under rule 9.20(a). The evidence makes clear that Respondent, his client, and attorney Kellam had taken steps terminating Respondent's representation of the client in the *Michael* matter and that they were all operating under the good faith belief that the substitution had been filed. While the website docket did not reflect the filing of the substitution until January 2012, there was no clear and convincing evidence that the absence of an entry in the court's docket was not merely an erroneous omission by the court in its internet docket. There was no testimony from any person having personal knowledge that the substitution had not been received by the court and filed in the actual court file; a certified copy of the court file was not produced by the State Bar for inspection by this court; no request for judicial notice was made by the State Bar that this court take notice of the absence of the document from the superior court's file; and the adverse party did not appear to testify that he had not been served with the substitution or that either he or the court had any belief after October 4, 2011, that Respondent had any continuing involvement as counsel in the case. Moreover, even if the substitution had not been filed by the court, under the uncontroverted facts of this case, this court does not

conclude that Respondent's omission constituted any willful violation of his duties under rule 9.20(a).

This count is dismissed with prejudice.

**Count 3 – Section 6068, subd. (k) [Failure to Comply with Conditions of Probation]**

Business and Professions Code section 6068, subsection (k), provides that it is the duty of every member to “comply with all conditions attached to any disciplinary probation, including a probation imposed with the concurrence of the attorney.”

As noted above, Respondent failed to comply with many of the conditions of his probation. His violations included his failure to schedule a meeting with the probation deputy assigned to his matter on or before December 18, 2011; his failure to provide timely quarterly reports due on January 10 and April 10, 2012; his failure to provide proof by November 18, 2012, that he had completed the required six hours of MCLE-approved classes on general ethics; his failure to provide proof that he had completed the State Bar's Ethics School by the November 18, 2012 deadline; and his failure to provide proof that he had completed the State Bar's Client Trust Accounting School by that same deadline. Respondent's conduct in failing to comply with these conditions of probation constituted a willful violation by him of section 6068, subdivision (k). (*In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 652 [substantial compliance with a probation condition is not a defense to culpability]; *In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 537.)

**Count 4 - Section 6106 [Moral Turpitude – Misrepresentation]**

Section 6106 provides that an attorney's “commission of any act involving moral turpitude...whether committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or

suspension. Acts of moral turpitude include omissions, concealment and affirmative misrepresentations. (*Grove v. State Bar* (1965) 63 Cal.2d 312, 315.)

In the NDC, the State Bar alleges that Respondent's submission on February 3, 2012, of his January 10, 2012 quarterly report, constituted an act of moral turpitude because he inaccurately checked the box on the form to certify that he had complied during the reporting period with all of his duties under the State Bar Act and all of the conditions of his probation. This court agrees with that contention. Respondent had been repeatedly informed by the Office of Probation, prior to completing and submitting the report on February 2, 2012, that he had not complied with the Supreme Court's order regarding rule 9.20(c), and that he had failed to comply with the condition of probation regarding scheduling a meeting with the Office of Probation before December 18, 2011. For him to then file a statement under penalty of perjury with the State Bar Court, certifying that there were no such violations was an act of misrepresentation and concealment and an act of moral turpitude, in willful violation of section 6106.

### **Aggravating Circumstances**

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b).)<sup>4</sup> The court finds the following with regard to aggravating factors.

#### **Prior Discipline**

As noted above, on October 19, 2011, the California Supreme Court filed the Supreme Court Order in State Bar Court case Nos. 09-O-16183 and 10-O-07527. Pursuant to that order, Respondent was suspended from the practice of law for two years, stayed, and placed on

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<sup>4</sup> All further references to standard(s) or std. are to this source.

probation for three years subject to conditions of probation that included the requirement that Respondent be actually suspended for the first 15 months of probation. Discipline was imposed based on Respondent's failure to deposit and maintain the balance of funds received for the benefit of a client in a trust account (two counts), his misappropriation of funds totaling \$28,241.93, and his failure to render appropriate accounts to a client.

Respondent's prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).)

### **Multiple Acts of Misconduct**

Respondent's multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).)

### **Mitigating Circumstances**

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.2(e).) The court finds the following with regard to mitigating factors.

### **Partial Compliance**

Respondent timely complied with his obligation under rule 9.20(a), and filed his compliance affidavit under rule 9.20(c), slightly less than two months after it was due. Such partial compliance with the rule is a mitigating factor. (*In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192, 205; *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527, 532-533.) That mitigation credit, however, is significantly reduced by the facts that Respondent did not file his compliance affidavit until after he had been informed by the Office of Probation that the matter was being referred to the Office of the Chief Trial Counsel for possible disciplinary proceedings and by Respondent's apparent lack of diligence in getting the statement promptly and accurately completed and filed after receiving that notification.

## **No Harm**

Respondent is entitled to mitigation credit because no harm occurred as a result of his late-filed affidavit. (Std. 1.2(e)(iii); *In the Matter of Rose, supra*, 3 Cal. State Bar Ct. Rptr. at p. 203; *In the Matter of Friedman, supra*, 2 Cal. State Bar Ct. Rptr. at p. 532.)

## **DISCUSSION**

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Although the standards are not binding, they are to be afforded great weight because “they promote the consistent and uniform application of disciplinary measures.” (*In re Silvertown* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 703.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

Standard 1.6(a) provides that, when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended sanction is to be the most severe of the different sanctions.

Standard 1.7(a) provides: “If a member is found culpable of professional misconduct in any proceeding in which discipline may be imposed and the member has a record of one prior imposition of discipline as defined by standard 1.2(f), the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.” As noted, Respondent’s prior discipline included a requirement of 15 months of actual suspension and three years of probation. His misconduct here, of course, has all occurred while he was on probation.

Standard 2.3, which provides: “Culpability of a member of an act of moral turpitude, fraud, or intentional dishonesty toward a court, client or another person or of concealment of a material fact to a court, client or another person shall result in actual suspension or disbarment depending upon the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the member's acts within the practice of law.”

Finally, the standard for assessing discipline for a violation of rule 9.20 is set out, in the first instance, in the rule itself. Rule 9.20(d) states, in pertinent part: “A suspended member’s willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation.”

Respondent's willful failure to comply with rule 9.20 is extremely serious misconduct for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) That said, both this court and the Supreme Court have, on occasion, imposed lesser discipline in situations where there has been timely compliance with subdivision (a) and the violation merely arises from a late submission of the compliance affidavit mandated by subdivision (c). (See, e.g. *Shapiro v. State Bar* (1990) 51 Cal.3d 251; *Durbin v. State Bar* (1979) 23 Cal.3d 461; *In the Matter of Rose, supra*, 3 Cal. State Bar Ct. Rptr. 192; *In the Matter of Friedman, supra*, 2 Cal. State Bar Ct. Rptr. 527.) In those cases, however, the courts have emphasized the respondent's good faith, the presence of significant mitigating circumstances, and the absence of substantially aggravating circumstances.

Respondent does not fall within the aegis of the above cases. Instead, his failure to comply with rule 9.20 is only one of the many instances during the last year where he has ignored the efforts of this disciplinary process to conform his conduct to that required of a member of the bar. Of particular concern to this court is his continued indifference to the court-ordered requirements that he spend time getting educated about his ethic and professional obligations by participating in the State Bar's Ethics and Client Trust Accounting schools. Where he has demonstrated for more than a year of probation a complete lack of interest in learning about his professional obligations, there is no reason for this court to conclude that he has any new-found commitment to complying with those obligations. Under such circumstances, a recommendation of disbarment is both appropriate and necessary to protect the public, the profession, and the courts. (*In the Matter of Snyder* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 593, 599-601.)

## **RECOMMENDED DISCIPLINE**

### **Disbarment**

The court recommends that respondent **James William Biedebach**, Member No. 152980, be disbarred from the practice of law in the State of California and that his name be stricken from the Roll of Attorneys of all persons admitted to practice in this state.

### **Rule 9.20**

The court further recommends that Respondent be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in this matter.

### **Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Respondent must also reimburse the Client Security Fund to the extent that the misconduct in this matter results in the payment of funds, and such payment is enforceable as provided under Business and Professions Code section 6140.5.

## **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), it is ordered that **James William Biedebach**, Member No. 152980, be involuntarily enrolled as an

inactive member of the State Bar of California, effective three calendar days after service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D)(1).)<sup>5</sup>

Dated: January \_\_\_\_\_, 2013.

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**DONALD F. MILES**  
Judge of the State Bar Court

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<sup>5</sup> An inactive member of the State Bar of California cannot lawfully practice law in this state. (Bus. & Prof. Code, § 6126, subd. (b); see also Bus. & Prof. Code, § 6125.) It is a crime for an attorney who has been enrolled inactive (or disbarred) to practice law, to attempt to practice law, or to even hold himself or herself out as entitled to practice law. (*Ibid.*) Moreover, an attorney who has been enrolled inactive (or disbarred) may not lawfully represent others before any state agency or in any state administrative hearing even if laypersons are otherwise authorized to do so. (*Benninghoff v. Superior Court* (2006) 136 Cal.App.4th 61, 66-73.)