

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of) Case No.: **12-N-12476-RAH**
)
TODD EUGENE MARSH,) **DECISION**
)
Member No. 176065,)
)
A Member of the State Bar.)

Introduction¹

As a result of a series of serious mental health crises described in this decision, respondent Todd Eugene Marsh failed to timely comply both with rule 9.20 of the California Rules of Court, and several other professional and personal obligations. In July 2013, he finally filed the rule 9.20 declaration that was due in January 2012. The Office of Probation “rejected” the declaration, indicating that it was late and incomplete.

Significant Procedural History

The Office of the Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on July 18, 2012. Shortly thereafter, the State Bar filed an Amended NDC.

Respondent initially filed a response to the Amended NDC, but, as explained below, stopped participating for a period of time. As a result, the present matter went into default on

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.

November 2, 2012. On April 30, 2013, respondent filed a motion to set aside the default. On May 31, 2013, the court issued an order setting aside the default.

Trial commenced on August 14, 2013. Trial was set and continued several times due to both the unavailability of respondent and the State Bar Court's move to new offices. The State Bar was represented by Deputy Trial Counsel Kim Kasreliovich. Susan Margolis of Margolis & Margolis represented respondent.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on April 7, 1995, and has been a member of the State Bar of California at all times since that date.

Facts

In 2006, respondent separated from his then wife. Between 2006 and 2008, he began feeling the onset of depression, primarily due to his marital difficulties. In 2008, he started seeing Dr. John Beck, a medical doctor specializing in psychiatry. In around 2009, he and his wife commenced divorce proceedings.

After he and his first wife separated, respondent began a relationship with Lynda Mills (Lynda), a registered nurse. In October 2011, they married. Between the two of them, they had six children in a blended family and respondent became very close to Lynda's children. In addition, he became especially close to Lynda's father.

During the time surrounding his divorce, respondent committed misconduct. On July 1, 2011, he entered into a Stipulation Re Facts, Conclusions of Law and Disposition (Stipulation) with the State Bar of California in case nos. 08-O-14841, et al. On July 12, 2011, the Hearing Department of the State Bar Court filed an Order Approving the Stipulation and recommending to the California Supreme Court that respondent be suspended from the practice of law for three years, that execution of the suspension be stayed, and that he be placed on probation for three

years subject to conditions, including that respondent be actually suspended for 18 months. On July 12, 2011, this Order Approving the Stipulation was properly served by mail upon respondent. Respondent received the order.

In late summer 2011, respondent began winding down his practice in anticipation of the upcoming suspension. He was still under the care of Dr. Beck, was taking Prozac, and was developing “an unhealthy vision of the future.” He was beginning to feel depressed about his obligation to close down his practice, and the amount of work he needed to do to accomplish that task. He began to feel that he did not have time for anything other than work. At this time, respondent was also taking care of Lynda’s father, who was disabled and rejected having a caregiver other than either Lynda or respondent. Respondent needed to be at home to carry him up and down the stairs of their house.

On November 2, 2011, the California Supreme Court filed an order in case no. S195921, State Bar Court Case Nos. 08-O-14841, et al. (Disciplinary Order). That same day, the Clerk of the Supreme Court of the State of California properly served upon respondent a copy of the Disciplinary Order. Respondent received the Disciplinary Order.

The Disciplinary Order included a requirement that respondent comply with rule 9.20 of the California Rules of Court, by performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively, after the effective date of the 9.20 Order. Respondent was ordered to comply with subdivision (a) and/or (b) of rule 9.20 of the California Rules of Court no later than January 1, 2012, and was ordered to comply with subdivision (c) of Rule 9.20 no later than January 11, 2012.

The Supreme Court Order became effective on December 2, 2011, thirty days after the Disciplinary Order was filed.

Shortly after respondent's suspension, Lynda's father died unexpectedly, and was buried on December 9, 2011. Because he was such an important part of respondent's life, respondent did not take the death well. Lynda credibly testified that after her father's death, she observed respondent's physical and mental condition deteriorate dramatically. In her words, "he lost his career and his father-in-law in the same month." Based on her medical training, she hoped he would bounce back, but he did not.

Respondent does not remember celebrating Christmas 2011. He saw that his children knew something was wrong. He began to drink heavily. He started to pretend he was getting up to be active during the day, but he would often wait until his wife left for work and then either go back to bed or go to a restaurant, drink alcohol, and wait there all day until a few hours before his wife was scheduled to come home. He would then return, and pretend to have had an active day. During this period, he began having attacks of severe anxiety – panic attacks. He felt that his life was over.

During the spring of 2012, respondent had some contact with the Office of Probation. On April 10, 2012, respondent wrote to a probation deputy, noting that he had not seen the Office of Probation's December 8, 2011 letter (Exhibit 4) and asking for an extension of time to prepare his response and his quarterly reports.² However, he did little to follow through, because he was in the middle of a serious episode of depression.

In the spring or summer of 2012, Lynda began to see through respondent's façade of having active, productive days. She noticed that he was not taking the kids to school on time, and that bills were not being timely paid. He began to leave the house for days at a time – once for five days, and on another occasion he was gone for three days, during a period that included their anniversary. At around this point, one of his friends looked him up on the State Bar website

² Exhibit D is improperly dated April 10, 2011. As can be seen from the context of the letter, it should have been dated April 10, 2012.

and learned that he was in default on a rule 9.20 matter (the present matter.) When advised of this fact, respondent's reaction was to seek to escape these problems. In the fall of 2012, respondent began to have suicidal thoughts. He had even taken the step of tying a rope around a beam in his house in order to hang himself.

Lynda decided to intervene in a direct and forceful way. She refused to accept his excuses and required him to answer her questions. In respondent's words, "she became an unbearable pain in the ass." But he considers her intervention as a major factor in saving his life.

In November 2012, Lynda arranged for respondent to see another psychiatrist, Dr. Robert Imani. Dr. Imani was able to see him the night she called. After several meetings, Dr. Imani diagnosed respondent as having severe depression, anxiety, and attention disorders, exacerbated by excessive alcohol use. Lynda arranged for him to be admitted into a hospital out of the area where they lived. While he was in the hospital, she went through his things and found several boxes containing unpaid bills and unopened correspondence. Included in these documents was correspondence from the State Bar. She put them aside and waited to confront him until he felt better and had overcome most of his mental health issues. In April 2013, she discussed these matters with him.

Dr. Imani was able to control respondent's mental health issues with counselling and different medication. As of April 2013, his depression and related symptoms had begun to diminish. Further, respondent ceased using alcohol to self-medicate. On July 25, 2013, respondent filed his 9.20 declarations.³

³ As noted below, the 9.20 declaration was filed late at the State Bar Court, and not all the boxes were properly checked. Therefore, the Office of Probation "rejected" it. (See Exhibit 7, p. 1.) Of course, the Office of Probation cannot reject a filing made in the State Bar Court. Instead, this use of the word can only be understood as a statement that the 9.20 declaration, in the Office of Probation's view, did not satisfy respondent's probation condition. It should be noted that, while respondent did not check off the boxes as having been complete, he did supply an additional declaration which clarified some of the issues not addressed with checked boxes on

In August 2013, respondent was hospitalized with a sore throat and a high temperature, resulting from a severe abscess. Lynda helped him with these issues, since the wound had to stay open and drain for more than three weeks. He suffered with this condition between August and November 2013.

Respondent has emerged from this mental health episode with a determination to correct the mistakes he made that drove him into his depressed state. He feels that he has “come back to life.” He is currently doing research and writing for his cousin, a lawyer.

9.20 Violation

On July 25, 2013, respondent filed with the State Bar Court a 9.20 declaration and respondent’s accompanying declaration and lodged these documents with the Office of Probation. As noted above, the 9.20 declaration and supporting declaration were “rejected” by the Office of Probation, and respondent was advised that the policy of the Office of Probation was that such a violation cannot be corrected. (See Stipulation as to Facts and Admission of Documents, paragraph 22.)

Conclusions

Count One – Rule 9.20 Matter

Respondent willfully violated California Rules of Court, rule 9.20, by not filing an affidavit of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c),

the 9.20 declaration. As such, while not entirely complete, the 9.20 declaration did at least address most, if not all, of the requested information.

However, the parties have stipulated that it is the position of the Office of Probation that since respondent did not perform the acts required in rule 9.20(a) within the required timeframe he can never be in compliance with rule 9.20 and therefore he can never lodge and have filed a 9.20 declaration. Consequently, respondent did not file an amended 9.20 declaration. The stipulated facts specified as much: “Due to the rejection of Respondent’s July 25, 2013 9.20 Affidavit, Respondent has failed to file with the clerk of the State Bar Court a declaration of compliance with Rule 9.20 (a) and (b), California Rules of Court, as required by Rule 9.20(c).” (Stipulation as to Facts and Admission of Documents, page 5, paragraph 23,)

thereby failing to timely comply with the provisions of Supreme Court Order No. S195921, requiring compliance with California Rules of Court, rule 9.20.

Aggravation⁴

Prior Record of Discipline (Std. 1.5(a).)

As is the case in all rule 9.20 matters, respondent has a prior discipline. In case no. 08-O-14841, et al., effective December 2, 2011, respondent entered into a stipulation in four matters. (Exhibit 8.) He stipulated to several violations, including moral turpitude for writing checks with insufficient funds in his client trust account and mishandling client funds; failing to maintain client funds in trust; failing to communicate with clients; commingling; failing to timely disburse client funds; concealing from his client the fact that he had not filed a lawsuit; failing to perform legal services with competence; and failing to release a client file and client fees. The stipulation acknowledges that some of the misconduct was a direct result of respondent's difficult divorce and, in fact, the mishandling of trust funds was caused directly by his ex-wife. As noted above, respondent stipulated to a three-year stayed suspension, three years' probation, with conditions, including 18 months' actual suspension.

Uncharged Misconduct

Pursuant to the Disciplinary Order, respondent was ordered to comply with the following terms and conditions of probation, among others:

- a. to comply with the State Bar Act and the Rules of Professional Conduct during the period of probation;
- b. to contact the Office of Probation and schedule a meeting with the assigned probation deputy to discuss the terms and conditions of probation within 30 days of the effective date of discipline;

⁴ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

- c. to submit to the Office of Probation written quarterly reports each January 10, April 10, July 10, and October 10 of each year or part thereof during which the probation is in effect, certifying under penalty of perjury whether he has complied with all provisions of the State Bar Act and the Rules of Professional Conduct and all terms of probation during the preceding calendar quarter or part thereof covered by the report and to file a final report no earlier than 20 days prior to the expiration of the probation period and no later than the last day of said period;
- d. to provide satisfactory proof to the Office of Probation of attendance at a session of the Ethics School and passage of the test given at the end of that session within one year of the effective date of discipline;
- e. to provide satisfactory proof to the Office of Probation of attendance at a session of the Client Trust Accounting School and passage of the test given at the end of that session within one year of the effective date of discipline; and
- f. to submit the Craig Ostwalt matter (case no. 10-O-00282) to binding fee arbitration with respect to the \$6,500 retainer for services regarding the civil component of Ostwalt's matter within six months of the effective date of the discipline.

Respondent did not contact the Office of Probation to schedule an initial meeting with his assigned probation deputy by the due date of January 1, 2012. Respondent did contact the Office of Probation on April 13, 2012. Respondent did not file any of the required quarterly reports with the Office of Probation which were due on the following dates: April 10, 2012; July 10, 2012; October 10, 2012; January 10, 2013; April 10, 2013; or July 10, 2013. Respondent did not provide satisfactory proof to the Office of Probation of attendance at a session of the Ethics School and passage of the test given at the end of that session by the due date of December 2, 2012. Respondent did not provide satisfactory proof to Probation of attendance at a session of the Client Trust Accounting School and passage of the test given at the end of that session by the due date of December 2, 2012.

Respondent sent Ostwalt a certified letter containing the information necessary to initiate fee arbitration by the due date of June 2, 2012, but Ostwalt did not initiate fee arbitration.

Respondent and Ostwalt did not engage in binding fee arbitration regarding the Ostwalt matter by the due date of June 2, 2012.

Although evidence of uncharged misconduct may not be used as an independent ground of discipline, it may be considered in aggravation where the “evidence was elicited for the relevant purpose of inquiring into the cause of the charged misconduct [and where the finding of uncharged misconduct] was based on [the respondent’s] own testimony. . . .” (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 36.) Here, respondent stipulated to the aforementioned uncharged probation violations. The uncharged probation violations were related and relevant to the charged misconduct, as they occurred during the same approximate time period and stemmed from respondent’s mental health episode. Respondent’s uncharged probation violations warrant substantial weight in aggravation.

Mitigation

Extreme Emotional/Physical Difficulties (Std. 1.6(d).)

As noted above, respondent presented extensive evidence of a serious mental health condition during the period of misconduct, through testimony of two psychiatrists and his wife, a registered nurse and percipient witness. While he still is under treatment, medication has stabilized his condition and he has regained his life again. He no longer drinks alcohol, has attended Alcoholics Anonymous, continues with marriage counseling, and has a strong support system. In particular, Lynda, his wife, has provided him with extraordinary guidance and support to guide him out of the depressive state which caused him to neglect his duties arising out of his prior misconduct. Respondent is entitled to substantial mitigation for these difficulties.

Good Character (Std. 1.6(f).)

Respondent presented five witnesses who provided very supportive testimony or declarations regarding respondent’s good character. Not only did respondent’s wife provide

credible testimony as to the change in his behavior and his recovery, but others also testified regarding his reputation and his ability to overcome the pressure created by his first marriage and its dissolution.

Bruce Franer spoke of respondent's honesty and forthrightness. He acknowledged the change brought about by respondent's difficult divorce, but provided a confident endorsement of respondent's recovery. In particular, Mr. Franer was persuasive, given his graduate degree in marriage and family counselling and his current employment as a Los Angeles County Supervising Deputy Probation Officer.

Professor Maury Jackson has known respondent for many years and is currently an ordained minister and professor at a divinity school. He was very close to both respondent and Lynda, and, in fact, had performed respondent's first wedding and officiated at Lynda's father's funeral. He was able to closely observe respondent's reaction to his father-in-law's sudden death, and provided counseling to him during this difficult time. He noted respondent's reputation for good moral character, stating that he had "a basic sense of honesty, goodness, and fairness." He continues to trust respondent to handle serious matters. He commented with appreciation as to the many contributions that respondent made to the church, including performing services as a pastoral assistant, and as assistant for public relations and evangelism.

Finally, Howard Millings, a court administrator for the Los Angeles Superior Court, testified favorably as to respondent's skills as an attorney, and his courtesy and promptness in court matters. He noted that the judges in the Antelope Valley courthouse all had verified the quality of respondent's work, and agreed that he has earned their respect.

All of the character witnesses were aware of the misconduct and acknowledged that despite these mistakes, they were unwavering in their support of respondent's good character. Respondent's good character evidence warrants some weight in mitigation.

Cooperation with the State Bar (Std. 1.6(e).)

Respondent entered into an extensive stipulation as to facts and admission of documents. This stipulation saved court resources and warrants some consideration in mitigation.

Discussion

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

In determining the 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). Second, the court looks to decisional law. (*Snyder v. State Bar* (1990) 49 Cal.3d. 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

Standard 1.1 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; and the preservation of public confidence in the legal profession. This standard also provides that rehabilitation can “be an objective in determining the appropriate sanction in a particular case, so long as it is consistent with the primary purposes of discipline.”

Standard 1.7 provides that if aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors.

In this case, the standards provide for the imposition of a minimum sanction of actual suspension. Standard 2.8(a) provides that disbarment or actual suspension is appropriate for disobedience or violation of a court order related to the member’s practice of law, the attorney’s oath, or the duties required of an attorney.

Due to respondent's prior record of discipline, the court also looks to standard 1.8(a) for guidance. Standard 1.8(a) provides that if an attorney has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.

The standards, however, "do not mandate a specific discipline." (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.) It has long been held that the court is "not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, [the Supreme Court is] permitted to temper the letter of the law with considerations peculiar to the offense and the offender." (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) Yet, while the standards are not binding, they are entitled to great weight. (*In re Silvertown* (2005) 36 Cal.4th 81, 92.)

The State Bar urges that respondent be disbarred. Respondent argued that he should receive no more than a one-year period of actual suspension.

Disbarment is generally considered to be the appropriate sanction for a willful violation of rule 9.20. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) The imposition of disbarment in rule 9.20 matters, however, is far from absolute. Over the years, the courts have weighed the facts and circumstances of each case individually. In several published decisions, the California Supreme Court and the Review Department of the State Bar Court have found that, due to various extenuating circumstances, an attorney's breach of rule 9.20 may warrant a discipline significantly less than disbarment. (See *Shapiro v. State Bar* (1990) 51 Cal.3d 251; *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192; and *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527.)

In determining the proper level of discipline, the court finds some guidance in *In the Matter of Rose*, *supra*, 3 Cal. State Bar Ct. Rptr. 192; and *In the Matter of Pierce* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 382.

In *Rose*, the attorney was found culpable of failing to comply with the conditions of his disciplinary probation and, in a consolidated matter, failing to timely comply with rule 9.20. In the probation matter, the attorney failed to timely file three quarterly reports and two client trust account audits. In the rule 9.20 matter, the attorney submitted his rule 9.20(c) affidavit twelve days late. In aggravation, the attorney committed multiple acts of misconduct and had two prior records of discipline.⁵ In mitigation, the attorney's late submission of his 9.20 affidavit did not result in harm and demonstrated his recognition of wrongdoing. In addition, the attorney received mitigating credit for his pro bono and volunteer work. The Review Department made the following separate recommendations. In the probation matter, it was recommended that the attorney's probation be revoked and that he receive a five-year suspension, stayed, with five years' probation, including a two-year actual suspension. In the 9.20 matter, it was recommended that the attorney be suspended for two years, stayed, with two years' probation, including a nine-month actual suspension. It was further recommended that these two separate disciplines run concurrently.

In *Pierce*, the attorney was initially disciplined for a single matter involving client abandonment. Following her initial discipline, she repeatedly defaulted in three subsequent probation proceedings. In addition, the attorney filed her rule 9.20 affidavit 21 days late. Noting that the attorney's "ostrich-like behavior" resulted in her protracted inattention to her disciplinary

⁵ The attorney's first discipline included a two-year actual suspension. His second discipline included an additional year of actual suspension, consecutive to his first period of actual suspension.

probation, the Review Department, citing her extreme indifference, recommended that she be disbarred. (*In the Matter of Pierce, supra*, 2 Cal. State Bar Ct. Rptr. 382, 388.)

The court finds that the present matter falls in between *Rose* and *Pierce*. Respondent's failure to file his rule 9.20 declaration for more than 18 months is considerably more egregious than *Rose*. And while respondent, as opposed to the attorney in *Rose*, has only one prior record of discipline, his failure to comply with numerous terms of his disciplinary probation is a significant factor in aggravation.

Similar to *Pierce*, it could be said that respondent exhibited "ostrich-like behavior;" however, unlike *Pierce*, who failed to participate in the disciplinary proceedings, we have a clear understanding of the mental health episode that led to respondent's misconduct. What is more, it has been established that respondent, as opposed to the attorney in *Pierce*, has received extensive medical treatment and has stabilized his depression. Accordingly, the court has reason to believe that respondent will be able to avoid future misconduct.

Further, the court notes that there is no indication that the present misconduct caused any harm to respondent's clients. The damage caused by respondent's mental health episode was primarily concentrated on himself and his family.

Therefore, after weighing the evidence, including the factors in aggravation and mitigation, and considering the standards and the case law, the court finds that the appropriate discipline should include, among other things, an actual suspension of two years and until respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law.

Recommendations

It is recommended that respondent Todd Eugene Marsh, State Bar Number 176065, be suspended from the practice of law in California for three years, that execution of that period of

suspension be stayed, and that respondent be placed on probation⁶ for a period of four years subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first two years of probation, and respondent will remain suspended until the following requirement is satisfied:
 - i. Respondent must provide satisfactory proof to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law before his actual suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)
2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.
3. Within 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 respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
4. During the probation period, respondent must report in writing quarterly to the Office of Probation. The reports must be postmarked no later than each January 10, April 10, July 10, and October 10 of the probation period. Under penalty of perjury, respondent must state in each report whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of respondent's probation conditions during the preceding calendar quarter or applicable reporting period. If the first report would cover less than 30 days, no report is required at that time; however, the following report must cover the period of time from the commencement of probation to the end of that next quarter. In addition to all quarterly reports, a final report must be postmarked no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.
5. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.
6. 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)

⁶ The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

requirement, and respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

7. Within 30 days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person or by telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request.
8. Respondent must obtain psychiatric or psychological treatment from a duly licensed psychiatrist, psychologist or clinical social worker, at respondent's own expense, a minimum of one time per month and must furnish satisfactory evidence of compliance to the Office of Probation with each quarterly report. Treatment should commence immediately and, in any event, no later than 30 days after the effective date of the Supreme Court's final disciplinary order in this proceeding. Treatment must continue for the period of probation or until a motion to modify this condition is granted and that ruling becomes final. If the treating psychiatrist, psychologist or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or the State Bar may file a motion for modification of this condition with the State Bar Court Hearing Department pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

At the expiration of the probation period, if respondent has complied with all conditions of probation, respondent will be relieved of the stayed suspension.

Multistate Professional Responsibility Examination

It is recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

California Rules of Court, Rule 9.20

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

Costs

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

Dated: November _____, 2014

RICHARD A. HONN
Judge of the State Bar Court