

FILED

AUG 29 2014

STATE BAR COURT
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**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO**

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|----------------------------|---|---------------------------------------|
| In the Matter of |) | Case Nos.: 12-O-10262 (12-O-11155; |
| |) | 12-O-11926); 12-O-13437 |
| ARMEN JANIAN, |) | (12-O-13523; 12-O-14139; |
| |) | 12-O-14205; 12-O-15682) |
| Member No. 102747, |) | 12-O-17836 (13-O-10458; |
| |) | 13-O-10599; 13-O-10615) |
| A Member of the State Bar. |) | 13-O-10793 (13-O-12059; |
| |) | 13-O-12639) |
| |) | (S213045) |
| |) | |
| |) | |
| |) | Order Re: Respondent's Motion for |
| |) | Modification of Restitution and Costs |
| |) | |
| |) | |
| |) | |

BACKGROUND

On July 30, 2014, respondent Armen Janian filed a motion in the above-captioned matter. In his motion, respondent requests the Hearing Department of the State Bar Court to modify that part of his discipline, as set forth in Supreme Court order S213045, requiring that he remain suspended until such time as he has paid specified restitution in full. Respondent also requests that his costs payments be modified. In support of his request for cost relief, respondent has submitted a financial declaration for relief or extension of time to pay disciplinary costs.



On August 6, 2014, the State Bar of California, Office of Probation (Office of Probation), by and through Supervising Attorney Terrie Goldade, filed opposition to respondent's motion.¹

Respondent correctly states in his motion that the discipline imposed on him by the Supreme Court consists of a two-year stayed suspension, a probation period of two years, and "various conditions of probation." Supreme Court order S213045, filed on November 13, 2013, states that "[respondent] is suspended from the practice of law "for a minimum of the first six months of probation, and will remain suspended until" he makes restitution in full to specified payees. Thus, the restitution requirement is part of the actual period of suspension imposed by the Supreme Court. Moreover, the restitution requirement, as set forth in the July 11, 2013 Stipulation, which respondent executed, explicitly stated that, "[p]ursuant to the actual suspension provision on page 4, Respondent will remain suspended until he pays full restitution."

Since rule 5.300(C) of the Rules of Procedure of the State Bar of California requires that "[u]nless expressly authorized by the Supreme Court, the State Bar Court will not consider a motion or stipulation to modify an actual or stayed period of suspension, *whether it is a condition of probation or not*" [italics added], respondent's only remedy as to his actual suspension, including the restitution requirement, lies with the Supreme Court. Rule 5-300(C) makes clear that the State Bar Court lacks jurisdiction to modify respondent's actual suspension, which requires that he be suspended from the practice of law for a minimum of six months and will remain suspended until he has made restitution in full.

¹ In its opposition, the Office of Probation acknowledges that although on pages six and eleven of respondent's motion, he "appears to be requesting a change to his cost payments," the Office of Probation is not responding to the cost issues set forth by respondent.

The State Bar Court, however, does have jurisdiction to grant relief from disciplinary costs and/or can grant an extension of time to comply with disciplinary costs. (Rules Proc. of State Bar, rule 5.130(B).)

As acknowledged by the Office of Probation, respondent's motion "appears to be requesting a change" to his payments regarding disciplinary costs, as well as to his actual suspension. The court, therefore, deems respondent's motion to be (1) a request to modify his actual suspension, specifically modification of the restitution requirement and (2) a request for cost relief and/or an extension of time in which to pay disciplinary costs. As noted, *ante*, the Office of Probation offered no response to respondent's request regarding cost relief.

ORDER

Accordingly, pursuant to rules 5.300(C) and 5.130(B) of the Rules of Procedure, respondent's motion is **granted, in part, and denied, in part** as follows:

1. Respondent's request that this court modify his actual suspension, i.e., specifically, that part of the actual suspension requiring him to remain suspended from the practice of law until he has paid restitution in full, is **denied** for lack of jurisdiction. (Rules Proc. of State Bar, rule 5.300(C).)

2. Having considered respondent's request for cost relief, the court finds that respondent has established hardship, special circumstances and other good cause under rule 5.130(B) of the Rules of Procedure.

Therefore, respondent is **granted** partial relief from costs, in that the amount of costs assessed against him is reduced from \$18,104² to \$9,052. Additionally, in view of respondent's financial hardship, the court orders that the time in which respondent must pay the reduced disciplinary costs is extended. Specifically, the reduced disciplinary costs must be paid in five

² The court takes judicial notice of the Certificate of Cost filed on August 28, 2013, in the above-captioned matter.

equal installments along with respondent's membership fees, commencing with the 2016 billing cycle. In accordance with Business and Professions Code section 6086.10, one-fifth of the costs must be paid with respondent's membership fees for the years 2016, 2017, 2018, 2019, and 2020.

It is further **ORDERED** that if respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision (c), the remaining balance of the costs is due and payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California. (Rules Proc. of State Bar, rule 5.134.) The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

IT IS SO ORDERED.

Dated: August 27, 2014



RICHARD A. PLATEL
Judge of the State Bar Court

CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 29, 2014, I deposited a true copy of the following document(s):

ORDER RE: RESPONDENT'S MOTION FOR MODIFICATION OF RESTITUTION
AND COSTS

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ARMEN JANIAN
1156 N BRAND BLVD
GLENDALE, CA 91202

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

TERRIE GOLDADE, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 29, 2014.



Angela Carpenter
Case Administrator
State Bar Court