FILED FEBRUARY 12, 2014

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **YEZNIK OHANNES KAZANDJIAN,** **Member No. 191917,** A Member of the State Bar.	)	**Case Nos.: 12-O-12181 (12-O-15067)-DFM** **DECISION**

INTRODUCTION

Respondent **Yeznik Ohannes Kazandjian** (Respondent) is charged here with three counts of misconduct, involving two different client matters. The three counts include allegations of willfully violating (1) rule 4-100(A) of the Rules of Professional Conduct[1] (failure to maintain client funds in trust account); (2) Business and Professions Code[2] section 6106 (moral turpitude - misappropriation); and (3) section 6106 (moral turpitude - misrepresentation). The court finds culpability and recommends discipline as set forth below.

PERTINENT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) was filed in this matter by the State Bar of California on May 14, 2013.

[1] Unless otherwise noted, all future references to rule(s) will be to the Rules of Professional Conduct.

[2] Unless otherwise noted, all future references to section(s) will be to the Business and Professions Code.

On June 17, 2013, Respondent filed his initial response to the NDC. Thereafter, on July 1, 2013, Respondent filed an amended answer to the NDC.

Also on June 17, 2013, the initial status conference was held in the case. At that time the case was scheduled to commence trial on September 10, 2013, with a trial estimate of two days.

On September 10, 2013, the matter was called for trial but was trailed until September 24, 2013, due to a lengthy ongoing trial in another matter. On September 24, 2013, the trial was then continued to January 7, 2014. Thereafter, that trial date was postponed until January 24, 2014, due to the unavailability of an operational courtroom as a result of the court's move to a new location.

Trial was commenced and completed on January 24, 2014. The State Bar was represented at trial by Deputy Trial Counsel William Todd. Respondent was represented at trial by Edward O. Leer of Century Law Group.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on Respondent's amended answer 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 December 4, 1997, and has been a member of the State Bar at all relevant times.

Case No. 12-O-12181 (Kocharyan Matter)

On or about October 5, 2011, Respondent deposited a $4,095 check from Farmers Insurance Company/21st Century Insurance Company into Respondent's client trust account (CTA) at Chase Bank. Both Respondent's law office and Araik Kocharyan (Kocharyan), a client of Respondent, were listed as payees on the check.

On or about November 15, 2011, Respondent deposited a $9,000 check into his CTA from American Claims Management on behalf of Kocharyan. This check was also made payable to both Respondent's law office and Kocharyan.

On or about December 8, 2011, Respondent drafted check #1122 in the amount of $6,300, payable to Kocharyan and drawn on his CTA. That amount of money belonging to Kocharyan should have still remained in Respondent's CTA at that time. On or about December 12, 2011, prior to the above check being paid out of the CTA, the balance of the CTA fell to $872.59. As a result, when check #1122 was presented to Chase Bank for payment that day, it was returned unpaid.

On December 23, 2011, check #1122 was paid to Kocharyan, but only after Respondent had made additional deposits into his CTA.

Count 1 – Rule 4-100(A) [Failure to Maintain Client Funds in Trust Account]

Rule 4-100(A) requires that "funds received or held for the benefit of clients" shall be deposited into a client trust account. It is well-established that "an attorney has a 'personal obligation of reasonable care to comply with the critically important rules for the safekeeping and disposition of client funds.' [Citation.] These duties are non-delegable. [Citation.]" (*In the Matter of Blum* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403, 411

Respondent violated rule 4-100(A) by allowing his CTA to be overdrawn by $5,427.41 on December 12, 2011. (*In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 504.) The fact that the balance of Respondent's CTA fell below the amount required to be held in trust for his client supports a finding of willful misappropriation in violation of rule 4-100(A). (*Palomo v. State Bar* (1984) 36 Ca1.3d 785, 795-796 [trust account violation may be willful for disciplinary purposes when caused by "serious and inexcusable lapses in office procedure"].)

Respondent seeks to explain the absence of Kocharyan's funds in his CTA by stating that three checks were mistakenly and unintentionally drawn by him on the CTA during the period from November 1, 2011 to November 19, 2011. The first of these checks, for $2,500, was drawn on November 1, 2011, and was made payable to Lexus of Valencia. The second of these checks, for $2,500, was drawn on November 11, 2011, and was made payable to Arlene Kazandjian. The third of the three checks, for $1,500, was drawn on November 19, 2011, and was made payable to "Law Offices of Yeznik O. Kazandjian."

Respondent blames these three mistaken checks on his computer. He testified that the mistaken checks resulted from his use of a software program that is set up to write checks on all of his Chase accounts, including his office's general operating account and his CTA. In preparing a check, the program calls on the drafter to designate the account on which the new check will be drawn. Respondent testified that there was some quirk with his computer or the attached mouse, causing the designated account to be switched just as he was clicking on the account that he desired. Unless Respondent caught the mistake at the time or before the check went out, the check would be drawn on the wrong account. To illustrate the problem, Respondent provided the court with a video, which he testified illustrated the bouncing mouse.

This court declines to find that Respondent's testimony provides a credible basis for concluding that the overdraft resulted from less than gross negligence on Respondent's part. Respondent had a duty to monitor the funds going into and out of his CTA, including balancing the monthly bank statements for the CTA. He acknowledged at trial that he was not doing that. The first of the "mistaken" checks was written more than a month before check #1122 was drafted on December 8, 2011, and returned by the bank on December 11, 2011. All three of the inappropriate checks were written in November 2011 and were included in Respondent's bank statement for the account for that month. Had Respondent been maintaining the required records

and exercising appropriate vigilance regarding his clients' funds, any mistake would have been apparent well before the check was returned by the bank on December 12, 2011.

Respondent's lack of vigilance also extended to the issuance of the check itself. Even if the bouncing mouse explanation is believed,[3] it does not fully account for the mistaken checks being issued. The software system did not prepare a signed check. Instead, each of the mistaken checks was signed by Respondent. All of the three checks, signed by Respondent, clearly stated in express terms on the face of the documents that they were drawn on Respondent's "Attorney/Client Trust Account."

Respondent's failure to maintain $5,427.41 of Kocharyan's funds in his CTA constituted a willful violation by him of rule 4-100(A).[4]

Count 2 – Section 6106 [Moral Turpitude – Misappropriation]

Section 6106 of the Business and Professions Code prohibits an attorney from engaging in conduct involving moral turpitude, dishonesty or corruption. While moral turpitude generally requires a certain level of intent, guilty knowledge, or willfulness, a finding of gross negligence will support such a charge where an attorney's fiduciary obligations, particularly trust account duties, are involved. (*In the Matter of Blum*, *supra*, 4 Cal. State Bar Ct. Rptr. at p. 410; see also *Lipson v. State Bar* (1991) 53 Cal.3d 1010, 1020; *Giovanazzi v. State Bar* (1980) 28 Ca1.3d 465, 475 ["Gross carelessness and negligence constitute violations of the oath of an attorney to

[3] The video of the purported bouncing mouse is subject to vastly different interpretations and is unpersuasive. Because the video does not show the operator's hand or the mouse itself at the time that the designated account purportedly changed, it is not possible to determine whether the change is caused by some glitch in the mouse or by some movement of the operator's hand. In any event, when the account is changed, the resulting computer image makes clear which account has been selected. In addition, after the check has been printed, the computer also gives a prompt to the operator to examine the check for correctness.

[4] The conduct underlying this violation is essentially the same as that underlying the finding, below, that Respondent is culpable of the more serious misconduct of committing an act of moral turpitude (misappropriation) in willful violation of section 6106. Accordingly, the court finds no need to assess any additional discipline as a consequence of it. (See *In the Matter of Brimberry* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390, 403.)

faithfully discharge his duties to the best of his knowledge and ability, and involve moral turpitude as they breach the fiduciary relationship owed to clients."]; *In the Matter of Rubens* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 468, 478.)

The NDC charges that Respondent's misappropriation of the $5,427.41 of Kocharyan's funds was an act of moral turpitude, in willful violation of section 6106. This court agrees.

As discussed above, the evidence is clear and convincing that the misappropriation of Kocharyan's funds resulted from gross negligence by Respondent, both in his lack of oversight regarding the funds in his CTA and in his preparation of checks drawn on that account. Respondent did not regularly reconcile his CTA or take any steps to verify that there were sufficient funds in the account at the time that checks were written. Moreover, he was sufficiently lax in writing checks on his various accounts that numerous checks were being prepared and improperly drawn on client funds. This problem continued, despite a prior overdraft on the account, until the overdraft in December 2011 resulted in the intervention of the State Bar. "Any procedure so lax as to produce that result was grossly negligent." (*Palomo v. State Bar, supra*, 36 Ca1.3d at p. 796.)

Even though such neglect of Respondent's client's funds was grossly negligent and careless, rather than willful and dishonest, it was an act of moral turpitude and professional misconduct, in willful violation of section 6106. (*Simmons v. State Bar* (1970) 2 Cal.3d 719, 729, citing *Grove v. State Bar* (1967) 66 Cal.2d 680, 683-684; see also *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 385; *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416; see also *Codiga v. State Bar* (1978) 20 Cal.3d 788, 793 [moral turpitude established without regard to motive or personal gain].)

Case No. 12-O-15067 (Arabian Matter)

On October 30, 2011, Hampartsoun Arabian (Arabian) hired Respondent as a result of receiving a notice of a $2,000 tax, plus interest, owed to the California Board of Equalization (BOE) as a result of Arabian's former business. Arabian paid Respondent's requested fee of $500, using a credit card.

Arabian's wife was very unhappy about this tax obligation, viewed the debt as being owed solely by her husband, and objected to her husband using a community asset (the credit card account) to pay for Respondent to deal with the problem. As a result of her unhappiness, she sought to revoke the credit card charge in January 2012.

Respondent eventually met with both Arabian and his wife on March 3, 2012, and made them both understand that the tax obligation was a shared debt. As a result the couple agreed to allow him to retain the $500 fee. In turn, the couple indicated that Arabian had just lost his job. Respondent then indicated that he would seek to arrange for a reduction of the tax and interest obligation by putting together and submitting a compromise offer to BOE whereby the couple would pay $50 per month for one year. To do this, Respondent needed the couple to fill out the financial disclosure form required by BOE and to provide financial information supporting their request. He also needed the couple to provide him with a $50 cashier's check, made payable to BOE, to submit with the compromise offer as a showing of good faith.

On March 5, 2012, Arabian and his wife met with an associate in Respondent's office and completed and signed an application for an "Offer in Compromise." They then provided Respondent's office with the requested $50 cashier's check.

When Respondent reviewed the financial information provided by Arabian and his wife, he realized that they did not qualify for any reduction of the tax based on the financial information that they had provided. Moreover, he was concerned that some of the expense

information, being claimed by the couple on the financial statement under penalty of perjury, was demonstrably false. As a result, he concluded that no positive benefit would come to his clients from submitting the compromise proposal but that negative consequences were possible. As a result, he did not submit the form. Unfortunately, he did not inform his clients of this decision at the time.

At the end of May or in very early June 2012, Arabian and his wife asked for their money back. On or before June 19, 2012, Respondent's office both issued a refund of the $500 fee and returned the original $50 cashier's check that had previously been given to the firm.

Count 3 - Section 6106 [Moral Turpitude – Misrepresentation]

In this count the State Bar alleges, "By misrepresenting to Arabian that he had been in contact with the Board of Equalization on Arabian's behalf when in fact he had not, Respondent committed an act involving moral turpitude, dishonesty or corruption." (NDC, ¶ 22.)

The evidence fails to provide clear and convincing proof of the above charge.

The testimony of Arabian and his wife on this issue was neither credible nor persuasive. They contended that Respondent had told them before they filled out the compromise papers on March 5, 2012, that he had already secured an agreement with the BOE, whereby they would pay $50 per month to BOE for only one year. According to the wife at trial, the $50 cashier's check was the first payment under this existing agreement. They also testified that, after filling out the form on March 5, 2012, they never talked with Respondent again about their problem with BOE until demanding their money back several months later.

Respondent testified credibly that he had never made any such representation to Arabian or his wife. Moreover, the testimony of the couple makes clear that they did not understand at the time that there was any existing agreement with the BOE. When asked at trial whether any additional payments had been made under this purported existing agreement, both Arabian and

his wife agreed that none had been. When asked why not, the wife, who was the principal contact with Respondent, said that Respondent was still negotiating the matter. Likewise, her husband, Arabian (who was called at trial by Respondent, rather than the State Bar) said that they were still waiting to hear from Respondent about the amount of any agreement.

This count is dismissed with prejudice.

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct, [5] std. 1.5.[6]) The court finds that there are no aggravating circumstances.

Mitigating Circumstances

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.)[7] The court finds the following with regard to mitigating factors.

No Prior Discipline

Respondent practiced law in California for approximately 14 years prior to the commencement of the instant misconduct. During that span, Respondent had no prior record of discipline. Respondent's tenure of discipline-free practice is a significant mitigating factor. (Std. 1.6(a).)[8]

Restitution

Although client funds were mishandled by Respondent as a result of his gross negligence in managing his client trust account, he also repaid all of such sums to those clients almost immediately on learning of the over-draft on his client trust account and prior to any complaint to the State Bar or the initiation of disciplinary proceedings. Such conduct is a major mitigating

[5] All further references to standard(s) or std. are to this source.
[6] Previously standard 1.2(b).
[7] Previously standard 1.2(e).
[8] Previously standard 1.2(e)(i).

factor. (Std. 1.6(j);[9] see also *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310; *Weller v. State Bar* (1989) 49 Cal.3d 670, 676; *Segal v. State Bar* (1988) 44 Cal.3d 1077, 1089; *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1366-1367; *Waysman v. State Bar* (1986) 41 Cal.3d 452; *In the Matter of Mapps* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1, 13.)

Corrective Measures

Respondent has taken steps to assure that checks will not be mistakenly drawn on his client trust account in the future and to comply with his obligation to actively supervise his client trust account on a timely basis. He also voluntarily completed the State Bar's Client Trust Accounting School in June 2012. Such actions, reducing the risk of future problems with the client trust account or client funds, is a mitigating factor. (Std. 1.6(j);[10] see also *Hipolito v. State Bar* (1989) 48 Cal.3d 621, 627, fn. 2 [favorable consideration given for "steps to repair the damage done and to prevent its recurrence"].)

Character Evidence

Respondent presented good character evidence from a wide range of references, including, inter alia, three attorneys, a priest, the city clerk of Glendale, and the principal of a local high school. Respondent is entitled to mitigation for this good character evidence. (Std. 1.6(f).)[11]

Community Service

Respondent presented significant evidence of community service, which is "a mitigating factor that is entitled to 'considerable weight.' [Citation.]." (Std. 1.6(f); *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785; *In the Matter of Lybbert* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 297, 305 [10-15 hours per month of volunteer community and church work, counseling

[9] Previously standard 1.2(e)(vii).
[10] Previously standard 1.2(e)(vii).
[11] Previously standard 1.2(e)(vi).

people in crisis.]; see also *In the Matter of Crane and DePew* (Review Dept 1990) 1 Cal. State Bar Ct. Rptr. 139, 158.)

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. (*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 Silverton* (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*, *supra*, 49 Cal.3d at pp. 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 1.7(a) [previously designated 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. In the present proceeding, the most severe sanction for Respondent's misconduct is found in standard 2.1(b), which provides: "Disbarment or actual suspension is appropriate for misappropriation involving gross negligence."[12]

A review of prior discipline cases that have considered the application of former standard 2.2(a) where the misappropriation was due to gross negligence, rather than dishonesty, suggests that 90 days' actual suspension is the appropriate discipline under the circumstances set forth above. (See, e.g., *In the Matter of Silver* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902 [finding six months' actual suspension "excessive" and recommending a 90-day actual suspension for three counts of misconduct in a single client matter, including misappropriating $4,800 in client trust funds, failing to properly pay out client trust funds, and acts of moral turpitude, mitigated by candor and cooperation in discipline proceedings]; *In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47 [90-day actual suspension for misappropriation of client's $12,000 held in trust due to gross neglect constituting moral turpitude, failure to promptly pay client until after State Bar intervention and failure to communicate to second client, mitigated by attorney's 14 years of discipline-free practice and "impressive" character testimony]; see also *Brockway v. State Bar* (1991) 53 Cal.3d 51 [three-month actual suspension for willful misappropriation of $500 due to gross negligence and failure to refund funds to client, plus misconduct in second client matter involving acquisition of adverse interest in client's property, mitigated by 13 years of discipline-free practice and favorable character evidence, but aggravated by questionable candor and indifference]; see also *In the Matter of* Bleecker (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 113 [60-day actual suspension for misappropriation of $270].)

[12] Standard 2.2 provides that (a) actual suspension of three months is appropriate for commingling or failure to promptly pay out entrusted funds; and (b) suspension or reproval is appropriate for any other violation of Rule 4-100.

RECOMMENDED DISCIPLINE

Recommended Suspension/Probation

For all of the above reasons, it is recommended that **Yeznik Ohannes Kazandjian,** Member No. 191917, be suspended from the practice of law for one year; that execution of that suspension be stayed; and that Respondent be placed on probation for two years, with the following conditions:

1. Respondent must be actually suspended from the practice of law for the first 90 days of probation.
2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all the conditions of this probation.
3. Respondent must maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation, his current office address and telephone number or, if no office is maintained, an address to be used for State Bar purposes. (Bus. & Prof. Code, § 6002.1, subd. (a).) Respondent must also maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation, his current home address and telephone number. (See Bus. & Prof. Code, § 6002.1, subd. (a)(5).) Respondent's home address and telephone number will not be made available to the general public. (Bus. & Prof. Code, § 6002.1, subd. (d).) Respondent must notify the Membership Records Office and the Office of Probation of any change in any of this information no later than 10 days after the change.
4. Within thirty (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 and 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.

5. Respondent must report, in writing, to the State Bar's Office of Probation no later than January 10, April 10, July 10 and October 10 of each year or part thereof in which Respondent is on probation (reporting dates).[13] However, if Respondent's probation begins less than 30 days before a reporting date, Respondent may submit the first report no later than the second reporting date after the beginning of his probation. In each report, Respondent must state that it covers the preceding calendar quarter or applicable portion thereof and certify by affidavit or under penalty of perjury under the laws of the State of California as follows:

    (a) in the first report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation since the beginning of probation; and

    (b) in each subsequent report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during that period.

During the last 20 days of this probation, Respondent must submit a final report covering any period of probation remaining after and not covered by the last quarterly report required under this probation condition. In this final report, Respondent must certify to the matters set forth in subparagraph (b) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California.

6. Subject to the proper or good faith assertion of any applicable privilege, Respondent must fully, promptly, and truthfully answer any inquiries of the State Bar's Office of Probation

[13] To comply with this requirement, the required report, duly completed, signed and dated, must be received by the Office of Probation on or before the reporting deadline.

that are directed to Respondent, whether orally or in writing, relating to whether Respondent is complying or has complied with the conditions of this probation.

7. Within one year after the effective date of the Supreme Court order in this matter, Respondent must attend and satisfactorily complete the State Bar's Ethics School and Client Trust Accounting School and provide satisfactory proof of such completion to the State Bar's Office of Probation. This condition of probation is separate and apart from Respondent's California Minimum Continuing Legal Education (MCLE) requirements; accordingly, Respondent is ordered not to claim any MCLE credit for attending and completing this course. (Rules Proc. of State Bar, rule 3201.)

8. Respondent's probation will commence on the effective date of the Supreme Court order imposing discipline in this matter.

9. At the termination of the probation period, if Respondent has complied with all of the terms of his probation, the one-year period of stayed suspension will be satisfied and the suspension will be terminated.

California Rules of Court, Rule 9.20

The court recommends that Respondent be ordered to comply with California Rules of Court, 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 in this matter.[14]

[14] Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is also, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

MPRE

It is further recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs

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

Dated: February _____, 2014

DONALD F. MILES
Judge of the State Bar Court