

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of)	Case No.: 13-C-13866-LMA
)	
SCOTT J. BLOCH,)	DECISION
)	
Member No. 264559,)	
)	
<u>A Member of the State Bar.</u>)	

Introduction¹

This matter is before the court on order of reference filed by the Review Department of the State Bar Court on August 26, 2013, for a hearing and decision as to whether the facts and circumstances surrounding the misdemeanor violation of title 18 United States code section 1361 (causing injury to or depredation to government property), of which respondent Scott J. Bloch (respondent) was convicted, involved moral turpitude or other misconduct warranting discipline, and, if so found, a recommendation as to the discipline to be imposed.

For the reasons stated below, the court finds, by clear and convincing evidence, that the facts and circumstances surrounding respondent's violation of misdemeanor violation of title 18 United States code section 1361 involve moral turpitude. Based on the facts and the law, as well as the applicable mitigating factors and the absence of any aggravating factors, the court recommends, among other things, that respondent be suspended from the practice of law for a

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.

period of one year, that execution of the suspension be stayed, that he be placed on probation for two years with conditions, including an actual suspension of 30 days from the practice of law.

Significant Procedural History

On February 12, 2013, respondent pled guilty before the United States District Court for the District of Columbia (the District Court) to Misdemeanor Depredation of Government Property, in violation of title 18 U.S.C. § 1361 pursuant to a plea agreement with the government.

On August 1, 2013, the Office of the Chief Trial Counsel of the State Bar of California (State Bar) transmitted evidence of finality to the Review Department. On August 26, 2013, the Review Department referred the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the facts and circumstances surrounding the conviction involved moral turpitude or other misconduct warranting discipline.

In accordance with the Review Department's referral order, this case proceeded to trial in the Hearing Department of the State Bar Court on November 6-7, 2013, and January 10, 2014. The State Bar was represented by Senior Trial Counsel Robert A. Henderson and Deputy Trial Counsel Catherine E. Taylor. Attorneys Jonathan I. Arons and Alexis E. Gough represented respondent. The court took this matter under submission for decision on January 10, 2014.

Findings of Fact and Conclusions of Law

Respondent is conclusively presumed, by the record of his conviction in this proceeding, to have committed all of the elements of the crime of which he was convicted. (Bus. & Prof. Code, § 6101, subd. (a); *In re Crooks* (1990) 51 Cal.3d 1090, 1097; *In re Duggan* (1976) 17 Cal.3d 416, 423; and *In the Matter of Respondent O* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 581, 588.) However, “[w]hether those acts amount to professional misconduct . . . is a

conclusion that can only be reached by an examination of the facts and circumstances surrounding the conviction.” (*Id. at p. 589, fn. 6.*)

A. Jurisdiction

Respondent was admitted to the practice of law in California on November 17, 2009, and has since been a member of the State Bar of California.

B. Findings of Fact

Background

In 2003, respondent was appointed by the President of the United States as Special Counsel at the United States Office of Special Counsel (OSC) in Washington, D.C. The OSC is an independent federal investigative and prosecutorial agency that, among other things, was charged with safeguarding the merit-based employment system by protecting federal employees and applicants from “prohibited personnel practices.” For example, the OSC was charged with receiving, investigating, and prosecuting allegations of prohibited personnel practices, such as retaliation against federal government whistle blowers. It was also the function of the OSC to investigate and prosecute claims of illegal political activity under the Hatch Act.

On January 5, 2004, respondent began serving as the Special Counsel at the OSC. Respondent served as Special Counsel through 2008.

On March 3, 2005, about a year after respondent became Special Counsel of the OSC, a complaint (the “Katz complaint”) was filed against him on behalf of a group of unnamed OSC employees and some public interest groups, alleging whistleblower retaliation by respondent. Several months later, in October 2005, the Office of Personnel Management’s Office of Inspector General (OPM-OIG) opened an investigation based on the allegations raised by the Katz complaint. On October 17, 2005, the OSC was advised by the OPM-OIG that the OSC should “retain any and all documents relevant to the March 5, 2005 complaint.”

In March 2006, the official investigation by the OPM-OIG began, which included interview and document requests.

In 2007, an investigation was initiated by respondent and the OSC regarding White House political operations, specifically relating to Karl Rove, as well as other cabinet and agency heads, regarding an alleged scheme that the White House was using government resources and personnel to get Republicans elected. If true, such scheme would be a violation of the Hatch Act. The investigation, initiated by respondent and the OSC led to “in-party strife,” as respondent was investigating the administration which had appointed him.

Facts and Circumstances Surrounding Respondent’s Misdemeanor Violation

In the Fall of 2006, respondent began experiencing computer problems with his government issued laptop. Respondent used his laptop at the office, as well as when he was away from the office. The problems, among others, of which respondent complained included losing emails, emails “bouncing back,” a blinking/shimmering screen, the computer freezing, and, at times, the total shutting down of the computer. Respondent stated that he was concerned that his computer had a virus or was being hacked.

Therefore, respondent reported his concerns regarding his computer problems to the OSC’s information technology department (IT department). The IT department examined the laptop and stated that the problem was fixed. Nonetheless, despite the IT department’s belief, respondent’s laptop computer problems continued. Eventually, the IT department issued respondent a new laptop after transferring his documents to that laptop. Respondent, however, was unable to effectively use the new laptop as it was not compatible with his old laptop and/or some of the software. Thereafter, the IT department provided respondent with his old laptop, and re-transferred his documents back onto the old laptop. Respondent went back to using his old/previous laptop.

In 2006, respondent also had discussions with a non-government employee at the OSC, who had heard about respondent's computer problems. The non-government employee, who also had experienced computer problems, shared information with respondent regarding his own computer issues. It was during these discussions, regarding their computer problems, that this individual with whom respondent was conversing informed respondent that he had used a company named "Geeks on Call" to fix his own computer problems. The individual told respondent that Geeks on Call successfully fixed his computer by using, among other things, a "seven-level wipe."²

In late November or early December of 2006, respondent's laptop computer "crashed." Respondent requested that the IT department try to recover his documents and pictures. This event required the late night assistance of the OSC's IT staff, as well as assistance from Microsoft to restore his computer. The head of IT told respondent that his computer may have had a "virus."

Respondent grew increasingly concerned with and frustrated by his computer problems. On December 11, 2006, respondent directed an OSC employee working under him to hire Geeks on Call to perform a "seven-level" wipe on his government issued laptop computer. Respondent did not attempt to conceal his request from the OSC staff.

On December 18, 2006, a Geeks on Call technician arrived at OSC's office. Respondent was not present and a staff member called respondent to inquire about what respondent wanted the technician to do while he waited for respondent to arrive to have his computer laptop serviced. Respondent instructed the staff member to direct the technician to perform a "seven-

² Respondent testified that his understanding was that a seven-level wipe involved a high level of scrubbing of a computer's hard-drive so that the files or information on the hard-drive would be "wiped" and not recoverable from the hard-drive, after the wiping process was complete.

level wipe” of two OSC computers that had been assigned to two former OSC employees. Later that day, when respondent arrived at his office, he instructed the Geeks on Call technician to perform a seven-level wipe on his OSC laptop computer. That was done after all documents, files, and pictures on respondent’s laptop were transferred to an encrypted flash drive. The “seven-level” wipe that was performed on the OSC computers wiped the entire hard drive of each of these three government computers.³ Geeks on Call provided an invoice to the OSC. The OSC paid the invoice.

In late November 2007, the Geeks on Call visit was publicized in a Wall Street Journal article. Thereafter, in December 2007, the United States House of Representatives Committee on Oversight and Government Reform (the Committee) wrote to respondent about media reports that he had authorized a seven-level wipe of OSC computers by non-government IT personnel.

On March 4, 2008, respondent was interviewed by members of the Committee staff regarding his December 2006, use of Geeks on Call. Respondent was not entirely candid and forthright when answering questions by the Committee staff. Specifically, respondent told the Committee staff that he didn’t know what a seven-level wipe was and had never heard of a seven-level wipe before hearing about it from the Geeks on Call technician. (Exh. 1, page 62.) He also stated that he had no knowledge that the two computers that had been assigned to two former OSC employees had been serviced by Geeks on Call. Those statements which respondent made to the House Committee were untrue. However, according to the U.S.

³ According to the U.S. Attorney in a memorandum filed with the District Court, after the wipes took place, each of the “wiped” computers was rendered unusable. None of the computers was able to perform any of its functions until a new operating system and additional software was reinstalled on the computers. (Exh. 15, p. 4.)

Attorney in a “memorandum” filed with the District Court, respondent’s statements did not hinder or impede the Committee’s investigation of the matter.⁴

Thus, on February 12, 2013, respondent pled guilty and was convicted of a misdemeanor violation of title 18 United States Code section 1361 (depredation of government property) valued at less than \$1,000. He was sentenced to, among other things, a 24-month term of probation, a \$5,000 fine, plus a \$25 assessment, 200 hours of community service, and one day incarceration in jail as a condition of probation.

C. Conclusions of Law

The evidence is clear and convincing that respondent was concerned with his computer problems. He consulted with the OSC IT department, as well as a non-government employee at the OSC. He learned about a process, i.e., a seven-level wipe. After his computer crashed and IT seemed unable to fix it to his satisfaction, respondent instructed an OSC staff person to contact Geeks on Call. On December 18, 2006, a Geeks on Call technician arrived at the OSC. As respondent was not present in the office, a staff member contacted respondent by telephone and asked respondent what he wanted the technician to do. Respondent instructed the staff member to direct the technician to perform a “seven-level wipe” of the OSC computers assigned to two former OSC employees. Later that day, when respondent arrived at his office, he instructed the technician to perform a seven-level wipe on his OSC laptop computer.

⁴ As set forth in a “supplemental memorandum in aid of sentencing” (Exh. 14, p. 12), it was the position of the U.S. Attorney, that although some of respondent’s statements to the Committee had been less than truthful, they “did not significantly hinder or impede the government’s investigation . . . [Bloch’s] statements about his knowledge of a seven-level wipe occurred nearly one year after the actual wipe had taken place. By this time, the government’s investigation of this offense was well underway. Moreover, because [Bloch] enlisted the aid of OSC staff to contact Geeks On Call and to provide the instructions to the technician, evidence beyond BLOCH’S statements to the committee were well-known to the government. Therefore, [Bloch’s] statements regarding the circumstances of the seven-level wipe cannot be said to have hindered the government’s investigation. (Exh. 14, p. 12 (183).)

In his March 4, 2008 interview with the House committee, respondent told the Committee staff that he had not instructed that a seven-level wipe be used on the two computers that had been assigned to two former OSC employees. Respondent also told the Committee that he had never heard of a seven-level wipe prior to his meeting with the Geeks on Call technician in December 2006, and had not instructed the technician to use a seven-level wipe on his own OSC laptop computer. Those statements were untrue.

It is not credible that when respondent was being interviewed by the Committee that he did not remember that he had heard of a seven-level wipe prior to the appearance of the Geeks on Call technician at the OSC. Respondent knew for several years prior to the interview that he was being investigated and he knew that there had been a Wall Street Journal article focusing on the wiping of the OSC computers. Respondent even wrote a response to the Wall Street Journal's article. It strains credulity that when respondent appeared before the Committee, he did not remember that he had heard of a seven-level wipe and was considering it as a means of resolving his computer problems. But, even if at the time he was interviewed by the House Committee, respondent somehow no longer correctly remembered all of the details relating to the phone instructions, which he had given to the OSC staff employee on December 18, 2006, it is not credible that respondent did not know or remember that when he personally met with the Geeks on Call technician at the OSC, that it was he, who had instructed that technician to use a seven-level wipe on his laptop computer. Nor is it plausible that respondent believed that he was informed for the first time about a level-seven wipe on December 18, 2006, i.e., the day that the Geeks on Call technician appeared at the OSC to address respondent's computer issues and service respondent's OSC laptop.

The court finds, therefore, that the facts and circumstances surrounding respondent's conviction for depredation of government property did involve moral turpitude. Respondent,

who occupied a position of trust as Special Counsel at the OSC, committed an act of dishonesty by intentionally being less than candid with the House Committee. As set forth, *ante*, there was an element of deceit in respondent's answers to certain questions posed to him by the Committee. It is well-established that a member of the Bar should not under any circumstances attempt to deceive others. (*Segretti v. State Bar* (1976) 15 Cal.3d 878, 888.) "An attorney's practice of deceit involves moral turpitude." (*Ibid.*)

Mitigating and Aggravating Circumstances

The parties bear the burden of proving mitigating and aggravating circumstances by clear and convincing evidence. (Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, standards 1.5 and 1.6.)⁵

A. Aggravation

The court finds no factors in aggravation. (Std. 1.5.)

B. Mitigation

Prior Record of Discipline (Std. 1.6(a).)

Respondent had practiced law for twenty years prior to the occurrence of the criminal conviction at issue in this matter. Respondent has been a member of the Bar in the State of Kansas, since 1986. In 2003, he was appointed as Special Counsel at the OSC. In January 2004, respondent began serving as the Special Counsel in Washington, D.C. As set forth, *ante*, respondent's criminal conduct occurred in 2006. And, he was not interviewed by the House Committee until March 4, 2008. Respondent was admitted to the Bar in California in 2009. Respondent was convicted of violating 18 U.S.C. § 1361 in February 2013.

⁵All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, and reflect the modifications to the standards effective January 1, 2014.

For 20 years, from 1986 to 2006, respondent had practiced law in Kansas without any misconduct. That lengthy period of discipline free practice warrants significant consideration in mitigation.⁶

Good Character (Std. 1. 6(f).)

Respondent presented the testimony and declarations of 26 character witnesses, including six attorneys, eight clients, business associates, former employees, friends, and his spouse, all of whom testified to his good character, integrity, and honesty. Among the business associates and friends was a Bishop of the Catholic Church, a school principal, a forensic psychiatrist, and a college professor. The attorneys uniformly attested to respondent's good character and integrity. Favorable character testimony from attorneys is entitled to considerable weight. (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547.) Because attorneys have a "strong interest in maintaining the honest administration of justice" (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319), "[t]estimony of members of the bar . . . is entitled to great consideration." (*Tardiff v. State Bar* (1980) 27 Cal.3d 395, 403.)

Many of the attorneys also attested to respondent's outstanding legal ability and dedication to his clients and the legal profession. This is another mitigating circumstance. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 667; *Hawk v. State Bar* (1988) 45 Cal.3d 589, 602; see also *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1065, 1069 [diligently and competently performing legal services is evidence of good moral character].)

Respondent clients also praised his humanity, commitment to his clients and his legal skills as extraordinary. Many felt that they had been abandoned by the government, the armed forces and/or the companies that had hired them to work in Iraq and Afghanistan. The clients

⁶ In November 2013, an informal admonition was imposed by the Office of the Disciplinary Administrator for the Kansas Board for the Discipline of Attorneys based on respondent's criminal conviction for violating title 18 U.S.C. § 1361.

stated that they had been unable to access medical care or insurance benefits, despite having sustained serious injuries, until respondent took on their cases. (Exhs. M, V, W, X, Y, Z, AA, and CC.) An air traffic controller and air safety whistleblower, who had worked at the Dallas/Fort Worth (DFW) airport and who eventually retired as a supervisor with 32 years of experience, attempted to report and draw attention to near midair collisions that were going unreported, thereby compromising the safety of every passenger that flew in and out of DFW. She attempted to report the dangers facing passengers at DFW to the FAA, the TSA, the DFW Airport Police, the FBI, two secretaries of transportation, a Senator of Texas, and her Congressman (who eventually did support her efforts). She stated, however, that it was respondent who stood out and took decisive steps to prevent a disaster waiting to happen. He took on the unpopular interest and became involved by launching a politically unpopular investigation. As a result of that investigation the air traffic control system was revamped. Respondent became involved when no one in government had been willing to accept that the agency charged with ensuring safety was in fact compromising safety. The retired air traffic control supervisor described respondent as taking on the challenge with courage, conviction, and without self-interest. (Exh. N.)

Many of the declarants have known respondent for more than 20 years professionally and/or personally. They testified that he is an accomplished and extremely competent lawyer. All of the declarations filed in support of respondent were very complimentary of his good character. All attested to the fact that they had read the Notice of Hearing on Conviction and were aware that he pled guilty to one count of misdemeanor depredation of government property, in violation of 18 U.S.C. §1361. Several of the lawyers and some of his friends, as well as clients, stated that respondent had acknowledged his mistakes and expressed remorse and regret regarding his wrongdoing.

Additionally, respondent has participated in numerous pro bono activities. The declarants testified that since his college days, respondent has served his community in many ways. He has worked on behalf of and with minority youth. He has worked for United Way and helped to found a K-7 school. (Exh. K, p. 142.) He also has provided legal work on behalf of non-profit organizations without compensation. (Exh. P.) Respondent has worked on prisoner reentry initiatives and executed a three-city reentry initiative in Kansas City, Boston, and Oakland. (Exh R.)

Respondent works on behalf of the homeless in Washington, D.C., including volunteering in soup kitchens. And, he visits seniors in nursing homes.

Service to the community is a mitigating factor. (*Schneider v. State Bar* (1987) 43 Cal.3d 784, 799.) As set forth, *ante*, respondent has an outstanding record of volunteer work and community service.

Thus, respondent is entitled to mitigation for good moral character, his community service and pro bono activities.

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; std. 1.1.)

Standard 1.7 provides, in pertinent part, that the specific sanction for the particular violation found must be balanced with any mitigating or aggravating circumstances.

Standard 1.7(c) provides that if mitigating circumstances are found, they should be considered alone and in balance with any aggravating circumstances, and if the net effect demonstrates that a lesser sanction is needed to fulfill the primary purposes of discipline, it is

appropriate to impose or recommend a lesser sanction than what is otherwise specified in a given Standard. On balance, a lesser sanction is appropriate in cases of minor misconduct, where there is little or no injury to a client, the public, the legal system, or the profession and where the record demonstrates that the member is willing and has the ability to conform to ethical responsibilities in the future.

Standard 2.11(c) provides that disbarment or actual suspension is appropriate for final conviction of a misdemeanor involving moral turpitude. (See Business and Professions Code § 6101, subd. (a).)

The standards, however, “do not mandate a specific discipline.” (*In the Matter of Van Sickel* (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 Silverton* (2005) 36 Cal.4th 81, 92.)

In a conviction referral proceeding, “discipline is imposed according to the gravity of the crime and the circumstances of the case.” (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 510.) An attorney’s commission of a crime involving moral turpitude is always a matter of serious consequence. The sanction imposed, however, is determined in each case depending on the nature of the crime and the circumstances presented by the record. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 103.)

The State Bar argued that respondent’s misconduct warrants discipline including a two-year period of actual suspension. Respondent, on the other hand, argued that the misconduct warranted an admonition or at most a private reproof.

In support of its recommended discipline, the State Bar relied on *Segretti v. State Bar* (1976) 15 Cal.3d 878. However, the misconduct of Segretti is far more extensive and egregious than that of respondent. Segretti fabricated documents, which contained untrue allegations regarding prominent national figures. Segretti also intended that the recipients of those documents be deceived as to the true source of the fabricated material. Most significantly, Segretti repeatedly committed acts of deceit that were designed to subvert the free electoral process. (*Id.* at pp. 887-888.) The nature of Segretti's criminal misconduct and the surrounding circumstances are far more serious than that of respondent, herein, and, thus, offers little, if any, guidance as to the discipline to be imposed in the instant matter.

Additionally, the State Bar argued that respondent knew there was some sort of information on his computer, which he did not want others to discover and he took steps to remove it from the public eye as part of a cover-up. The State Bar, however, has the burden of proving its case by clear and convincing evidence, not by mere innuendo. It is not the burden of the finder of fact to speculate on what may or may not have occurred. In State Bar Court proceedings, any reasonable doubts must be resolved in the respondent's favor. (*In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 438; *Young v. State Bar* (1990) 50 Cal.3d 1204, 1216.) Reasonable doubts in proving a charge of professional misconduct must be resolved in the accused attorney's favor. (*Ballard v. State Bar* (1983) 35 Cal.3d 274, 291.)

What has been proved by clear and convincing evidence in the instant matter is that respondent, is guilty of the elements of the charge to which he pled, i.e., depredation of government property in an amount of less than \$1,000. Additionally, it was shown by clear and convincing evidence that respondent, who held a position of trust as Special Counsel, committed an act of dishonesty by intentionally being less than candid with the House Committee, which

was investigating respondent's conduct in relation to the criminal charge of depredation of government property.

The court finds some guidance in *In re Chira* (1986) 42 Cal.3d 904. In that matter, the attorney participated in a tax shelter plan, which included his signing a backdated sales contract involving his automobile. The Review Department of the State Bar Court found that the attorney's conduct of backdating documents involved moral turpitude and recommended that the discipline include a 30-day actual suspension as a condition of probation. However, the California Supreme Court concluded that while a period of actual suspension would ordinarily be warranted when moral turpitude has been found, in light of what it considered to be compelling mitigating circumstances, the imposition of an actual suspension in *Chira* was not justified. The Court, therefore, ordered that Chira be suspended from the practice of law for one year, that execution of the suspension be stayed, and that Chira be placed on probation for three years. (*Id.* at 909.)

However, in the instant matter, the court does not find the mitigating factors to be so compelling as to warrant deviating from the Standard 2.11(c).

Thus, in light of the standards and case law and after balancing all relevant factors, including the underlying misconduct, the mitigating circumstances that included a lack of prior discipline in respondent's first 20 years of practice, good character and pro bono and community services, the court has determined that a 30-day actual suspension would be commensurate with the gravity of respondent's misconduct and would be adequate for the protection of the public, the courts and the legal profession. Recommending a two-year actual suspension or an admonishment or reproof, as urged by the parties, would not be fair or consistent with the court's goal of protecting the public, preserving confidence in the profession, and maintaining the highest possible professional standards for attorneys, while not being unnecessarily punitive.

Recommendations

It is recommended that respondent Scott J. Bloch, State Bar Number 264559, be suspended from the practice of law in California for one year, that execution of that period of suspension be stayed, and that respondent be placed on probation⁷ for a period of two years subject to the following conditions:

1. Respondent Scott J. Bloch is suspended from the practice of law for the first 30 days of probation.
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 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.
4. 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.
5. 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.
6. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation

⁷ 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.)

monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.

7. Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)
8. Respondent must comply with all conditions of respondent's criminal probation and must so declare under penalty of perjury in any quarterly report required to be filed with the Office of Probation. If respondent has completed probation in the underlying criminal matter, or completes it during the period of his disciplinary probation, respondent must provide to the Office of Probation satisfactory documentary evidence of the successful completion of the criminal probation in the quarterly report due after such completion. If such satisfactory evidence is provided, respondent will be deemed to have fully satisfied this probation condition.

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 (MPRE) 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.

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: April ____, 2014

LUCY ARMENDARIZ
Judge of the State Bar Court