PUBLIC MATTER – NOT DESIGNATED FOR PUBLICATION

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STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case No. 13-O-14659
	)	
RICHARD EDWARD COOMBS,	)	OPINION
	)	
A Member of the State Bar, No. 74281.	)	
	)	

A hearing judge found Richard Edward Coombs culpable of six counts of misconduct in a single client matter. The misconduct included: (1) failing to maintain client funds in trust; (2) misappropriating $485 in filing fees provided by his client; (3) making a false statement to the State Bar; (4) failing to perform competently; (5) failing to communicate with his client; and (6) failing to promptly refund unearned fees. At the trial below, the Office of the Chief Trial Counsel of the State Bar (OCTC) requested a six-month actual suspension. The hearing judge recommended discipline including a 30-day actual suspension, in part because she found Coombs was "entitled to substantial mitigation for [his] extensive discipline-free record." At the time of her decision, the judge could not have known that the California Supreme Court would subsequently impose discipline on Coombs in a separate matter.[1]

OCTC seeks review and renews its request for a six-month actual suspension, conditioned upon Coombs's showing of rehabilitation at a reinstatement hearing. (Rules Proc. of

[1] On August 28, 2015, we issued an order granting OCTC's Motion to Augment the Record with a copy of Coombs's record of discipline in State Bar Court case no. 13-O-17144. (Rules Proc. of State Bar, rule 5.156(B).) Also pursuant to that rule, we took judicial notice of the record in case no. 13-O-17144, which included the California Supreme Court's order dated June 26, 2015 (Supreme Court case no. S226111) suspending Coombs for one year, stayed, and placing him on probation for two years with no actual suspension.

State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)[2] It argues that the hearing judge should not have given mitigation credit for extreme emotional difficulties because Coombs did not establish a nexus between his misconduct and his emotional state, or prove that he was rehabilitated from his admitted alcohol addiction. OCTC also argues that we should afford no mitigation for the absence of a discipline record.

Coombs did not appeal and failed to file a response to OCTC's opening brief. (Rules Proc. of State Bar, rule 5.153(A) [failure to file responsive brief precludes appearance at oral argument absent authorization from presiding judge].) As such, he has waived any claim of factual error in the record. (Rules Proc. of State Bar, rule 5.152(C) [factual error not raised on review is waived].)

Based on our independent review (Cal. Rules of Court, rule 9.12), we affirm the hearing judge's culpability findings. But, in contrast to the judge who focused on the "insignificant" amount of the misappropriation, we consider Coombs's misconduct to be serious because it involves an intentional or grossly negligent misappropriation and dishonesty to the State Bar.

Moreover, unlike the hearing judge, we find no mitigation for Coombs's emotional problems and alcohol abuse since he failed to prove either: (1) a nexus between his emotional/addiction problems and his misconduct; or (2) that he is rehabilitated from his alcoholism. Also, we do not agree with the hearing judge who found that Coombs is entitled to mitigation for an unblemished discipline record. Rather, we find that Coombs does in fact have a prior record of discipline that bears a resemblance to the present disciplinary proceeding.

Accordingly, we recommend increasing the discipline proposed by the hearing judge to include a six-month actual suspension, as requested by OCTC. However, we reject OCTC's

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[2] Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct. Effective July 1, 2015, the standards were revised and renumbered. Because this request for review was submitted for ruling after that effective date, we apply the revised version of the standards. All further references to standards are to this source.

further request that Coombs should have to prove his rehabilitation and fitness to practice law before he is reinstated. Instead, in light of the short period of actual suspension, we recommend adopting the hearing judge's probation conditions, including several related to monitoring Coombs's recovery from his alcohol addiction, coupled with a three-year probationary term.

I. PROCEDURAL BACKGROUND

On April 22, 2014, OCTC filed a six-count Notice of Disciplinary Charges (NDC). It charged Coombs with: (1) failing to maintain client funds in his client trust account (CTA) (Rules Prof. Conduct, rule 4-100(A));[3] (2) moral turpitude for dishonestly or with gross negligence misappropriating $485 in advance filing fees provided by his client (Bus. & Prof. Code, § 6106);[4] (3) knowingly or with gross negligence making a false statement to the State Bar (§ 6106); (4) failing to perform competently (rule 3-110(A)); (5) failing to communicate with his client (§ 6068, subd. (m)); and (6) failing to promptly refund unearned fees (rule 3–700(D)(2)).

The parties entered into a pretrial stipulation as to facts. At the one-day trial, OCTC offered the testimony of Coombs's client, Raman Jain, and presented documentary evidence of the cashier's checks Jain gave Coombs and the bank statements subpoenaed from Coombs's bank. Coombs represented himself. He offered his own testimony and provided an unsigned letter from the Recovery Center at St. Helena as evidence of his rehabilitation efforts. The hearing judge filed the decision in this matter on October 30, 2014.

II. FACTUAL BACKGROUND

Coombs was admitted to the State Bar on June 28, 1977. At all relevant times, he maintained three separate bank accounts with Wells Fargo Bank—a CTA, a general/operating account, and a personal checking account.

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[3] All further references to rules are to the Rules of Professional Conduct unless otherwise noted.

[4] All further references to sections are to the Business and Professions Code unless otherwise noted.

On December 12, 2012, Jain hired Coombs and paid him a $750 advance fee to represent him in a debt collection matter. Coombs deposited this fee into his personal checking account. On December 17, 2012, Jain gave Coombs an additional check for $485 for filing fees. On that day, Coombs drafted a skeletal form civil complaint, which Jain signed. Coombs never filed the complaint, but he deposited Jain's $485 filing fees check into his personal checking account on December 19, 2012. Prior to the $485 deposit, Coombs's account had a negative balance of $59.68. After making the deposit, Coombs then wrote two checks totaling $250 toward his personal credit card debt. Two days later, his balance was only $20.30 after Coombs made two more personal payments totaling $155.02 from the account.

Between December 27, 2012 and January 17, 2013, Jain called Coombs nine times, leaving messages each time requesting an update on the status of his case. Coombs never returned his calls. On January 23, 2013, Coombs answered Jain's call, said that his father was very sick, and promised to call Jain back later. Coombs never did. Between January 25, 2013 and March 20, 2013, Jain called Coombs nine more times, again leaving a voicemail every time, but his calls were never returned. Finally, on March 26, 2013, Coombs answered the phone, but placed Jain on hold. Jain hung up after waiting for 20 minutes. Jain called again on March 27, 2013, but never spoke with Coombs.

Frustrated with Coombs's failure to respond, Jain filed a complaint with the State Bar in June 2013. On September 23, 2013, a State Bar investigator sent a letter to Coombs informing him of Jain's complaint and requesting a response by October 7, 2013. Coombs requested an extension until October 14, 2013, which was granted. Having received no response by October 29, 2013, the State Bar investigator called Coombs, who stated that he had placed the advance filing fees of $485 in his client trust account. Coombs also stipulated that he had assured the State Bar investigator that he had mailed him a copy of the trust account statement

showing the balance. That copy, however, did not provide proof that Coombs had maintained the filing fees in his trust account.

When the State Bar investigator emailed Coombs requesting proof that he had maintained the advance filing fees in trust, Coombs did not respond. In December 2013, the investigator sent a second letter informing Coombs that his CTA records did not show a deposit of the filing fees. In January 2014, Coombs told the investigator that if the filing fees were not in the CTA, they must have been deposited in his general/operating account. This was not true. On February 7, 2014, Coombs admitted to the investigator that he had endorsed the advance filing fees check and deposited it into his personal checking account. In June 2014, Coombs refunded $544 to Jain, representing the $485 in filing fees plus interest.

III. CULPABILITY

We affirm the hearing judge's culpability findings for each of the six counts of misconduct charged in the NDC. The record and the parties' stipulation provide clear and convincing evidence[5] to support the judge's culpability findings.

A. Count One: Coombs failed to maintain client funds in trust (rule 4-100(A))

Count One of the NDC alleges that Coombs received a $485 cashier's check from Jain on December 17, 2012 and failed to deposit it into his CTA, in violation of rule 4-100(A). Rule 4-100(A) provides that "advances for costs and expenses" received from a client shall be deposited in a CTA. Coombs stipulated that he deposited the $485 in advance filing fees into his personal checking account, which supports the hearing judge's finding of a rule 4-100(A) violation.

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[5] Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

B. Count Two: Coombs misappropriated client funds (§ 6106)

The allegations in Count Two state that Coombs dishonestly or with gross negligence misappropriated $485 in advance filing fees by depositing them into his personal checking account, thereby violating section 6106. Coombs stipulated that he deposited the $485 into his personal checking account, but he testified that his action was merely inadvertent and therefore does not constitute moral turpitude.

The hearing judge found his testimony was not credible, and so do we. (Rules Proc. of State Bar, rule 5.155(A) [hearing judge's factual findings entitled to great weight]; *McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032 [great weight given to hearing judge's findings on credibility].) Indeed, Coombs's testimony that he made a simple deposit error is controverted by his failure to respond to Jain's numerous telephone messages during a three-month period and his misrepresentations to the State Bar that the $485 check had been placed in his CTA when it had not. While the hearing judge found Coombs was culpable of moral turpitude, she did not determine if his actions were dishonest or grossly negligent. We find that, at a minimum, Coombs was grossly negligent. As the following analysis demonstrates, such gross negligence is sufficient to support the judge's moral turpitude finding.

In *Call v. State Bar* (1955) 45 Cal.2d 104, 109, the Supreme Court explained: "Some cases have said that gross negligence involves moral turpitude in that such conduct is a breach of [an attorney's] fiduciary duty, but in each instance there was a misrepresentation or other improper action, and the statements must be read in light of the additional facts. [Citations.]" In this case, we consider the totality of the circumstances surrounding the misappropriation, which involved misrepresentations to the client about the status of his case and to the State Bar investigator about the location of the funds, in concluding that Coombs was at least grossly negligent.

Moreover, Coombs violated "critically important rules for the safekeeping and disposition of client funds" (*Palomo v. State Bar* (1984) 36 Cal.3d 785, 795) and his non-delegable fiduciary duty to comply with those rules. (*In the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627, 635.) These are additional facts to support a finding of moral turpitude. We therefore find Coombs culpable of misappropriation involving moral turpitude, as charged in Count Two.

C. Count Three: Coombs's misrepresentations to the State Bar violated section 6106

The NDC alleges in Count Three that Coombs misrepresented to the State Bar investigator on October 29, 2013 that he had deposited Jain's check into his CTA and that Coombs either knew the statement was false or was grossly negligent in failing to confirm its truthfulness. While the allegations in Count Three on their own might not support a finding of gross negligence, we conclude from a review of the record as a whole that Coombs is culpable of moral turpitude by making repeated misleading and false statements to the investigator.

First, Coombs stated he placed the advance filing fees in his CTA. Then he sent the investigator an email that provided records purporting to prove the funds had been properly deposited into his CTA, which the records did not show. Coombs then mailed the investigator a copy of the trust account statement indicating its balance, which still did not prove he had properly deposited the funds. Finally, he stated that if the filing fees were not in the CTA, they must have been deposited in his general/operating account, which was not true. Coombs eventually admitted the truth to the investigator but only after OCTC sent him a copy of the check showing that it had been deposited in Coombs's personal account. Cumulatively, we find that these false and misleading statements were acts of moral turpitude in violation of section 6106. (*In the Matter of Conner* (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93, 103 [providing fraudulent invoices and memoranda to State Bar constitutes moral turpitude].)

D. Count Four: Coombs's failure to perform competently violated rule 3-110(A)

We agree with the hearing judge that Coombs failed to perform legal services with competence when he did not file a complaint in Jain's debt collection matter. The judge found Coombs's testimony not credible that he had informed Jain that he would not file the complaint because it was time-barred. In contrast, the hearing judge found Jain's testimony credible that Coombs told him he needed the $485 for filing fees so that he could, in fact, file a basic complaint. We adopt these credibility determinations, and find that Coombs willfully violated rule 3-110(A). (*In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 155 [attorney's series of repeated failures to file complaint within statute of limitations constituted failure to perform legal services competently].)

E. Count Five: Coombs's failure to communicate violated section 6068, subd. (m)

The hearing judge found Coombs culpable as charged in Count Five of failing to communicate with his client in violation of section 6068, subdivision (m).[6] "All attorneys owe a duty to communicate adequately with their clients and to use reasonable speed in accomplishing the purposes for which they were employed. [Citation.]" (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785.)

Coombs did not comply with his duty to communicate with Jain, who left numerous phone messages between December 27, 2012 and March 26, 2013. Coombs simply did not respond to Jain's messages. Twice, Jain actually reached Coombs. The first time, Coombs told Jain his father was ill and he would call Jain back. He did not do so. The second time, Coombs put Jain on hold, stating he would be "right back." After waiting 20 minutes, Jain hung up. Jain testified he also emailed Coombs twice, but Coombs never responded. This conduct clearly

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[6] Section 6068, subdivision (m), requires attorneys to promptly respond to clients' reasonable status inquiries and to keep them reasonably informed of significant case developments.

violated section 6068, subdivision (m). (*In the Matter of Broderick, supra,* 3 Cal. State Bar Ct. Rptr. at p. 154 [failure to respond to client status inquiries violated § 6068, subd. (m)].)

F. Count Six: Coombs's failure to return unearned fees violated rule 3-700(D)(2)

Rule 3–700(D)(2) requires that, upon termination of employment, an attorney must "[p]romptly refund any part of a fee paid in advance that has not been earned." The hearing judge found that Coombs performed no services of value for Jain and thus did not earn any of the $750 advance fee paid. We agree and find that Coombs willfully violated rule 3-700(D)(2) by failing to promptly refund the unearned fee when his employment was terminated. (*In the Matter of Phillips* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315, 323-324 [violation of rule 3-700(D)(2) where insufficient evidence of work performed to earn advance fee and attorney did not obtain result for which he was retained].)

IV. AGGRAVATION AND MITIGATION

Standard 1.5 requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Coombs to meet the same burden to prove mitigation.

A. Aggravation

1. Prior discipline record (std. 1.5(a))

On June 26, 2015, the Supreme Court of California issued an order suspending Coombs for one year stayed, and placing him on probation for two years with no actual suspension in case number 13-O-17144.[7] Coombs was found culpable of misconduct that is strikingly similar to the misconduct in the present matter; to wit, a failure to: perform services of value for his client in a loan modification matter; return $4,500 in unearned fees; return the client's file; and respond to

[7] On August 28, 2015, we granted OCTC's Motion to Augment the Record with a copy of Coombs's record of discipline, including the California Supreme Court's June 26, 2015 order in case number S226111 (State Bar Court case no. 13-O-17144).

repeated requests for information by a State Bar investigator. This misconduct began in July 2012, while the misconduct before us now began in December 2012. In both cases, the behavior continued through 2013.

We consider case number 13-O-17144 to be a prior record since the final imposition of discipline in that case occurred before the hearing judge submitted the present matter. (Rules of Proc. of State Bar, rule 5.106(A); std. 1.2(g).)[8] However, we assign minimal weight in aggravation to Coombs's prior record because his misconduct in the two cases essentially overlapped. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618-619 [impact of prior discipline diminished where misconduct occurred during same time period as current misconduct].) As such, the imposition of discipline in case number 13-O-17144 does not establish the likelihood that Coombs is a recidivist or that he is unwilling or unable to conform to ethical norms following imposition of that discipline. (*Ibid.*)

2. Multiple acts of wrongdoing (std. 1.5(b))

The hearing judge found one factor in aggravation—multiple acts of misconduct—which we adopt. We assign moderate weight in aggravation due to the number of times Coombs failed to respond to Jain and to his repeated misrepresentations to the State Bar investigator.

B. Mitigation

1. No mitigation for absence of prior record of discipline (std. 1.6(a))

The hearing judge afforded Coombs mitigation for a discipline-free record. But, as noted *ante,* we find that Coombs in fact has a prior record of discipline, which precludes a finding in mitigation of an absence of a prior record.

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[8] Rule 5.106(A) of the Rules of Procedure of the State Bar provides, in pertinent part: "A prior record of discipline comprises . . . all charges, stipulations, findings and decisions (final or not) reflecting or recommending that discipline be imposed on a party." Standard 1.2(g) provides: " 'Prior record of discipline' is a previous imposition or recommendation of discipline. It includes all charges, stipulations, findings and decisions (final or not) reflecting or recommending discipline, including from another jurisdiction."

2. Minimal mitigation for extreme emotional or physical difficulties (std. 1.6(d))

Standard 1.6(d) provides that mitigation may be credited for "extreme emotional difficulties . . . suffered by the member at the time of the misconduct and established by expert testimony as *directly responsible for the misconduct*, provided that . . . the member established by clear and convincing evidence that *the difficulties or disabilities no longer pose a risk* that the member will commit misconduct." (Italics added.) Coombs testified that he was distracted from his practice because he was engrossed in the care of his elderly parents. We give this minimal weight because he did not offer clear and convincing evidence that caring for his parents so overwhelmed him that he could not perform his duties as an attorney.

Similarly, Coombs testified that he began drinking excessively just prior to his father's death in June 2013. Yet he also testified that drinking did "not . . . interfere with [his] ability to either research or practice law" when Jain hired him. Based on this testimony, we find that Coombs failed to establish a nexus between his alcohol abuse and his misconduct. (*In the Matter of Lynch* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287, 295 [no mitigation for alcoholism and drug addiction without clear and convincing evidence that disease caused misconduct].)

We also agree with the hearing judge's finding that Coombs failed to prove that his alcohol abuse no longer posed a risk that he will commit additional misconduct. At trial, Coombs presented an unsigned letter from St. Helena Hospital stating that he was admitted to the Recovery Center for 24 days from July 2014 to August 2014. At the time of trial, Coombs testified he had been sober 39 days and was regularly attending Alcoholics Anonymous meetings. While commendable, such a short period of sobriety is not clear and convincing evidence of his rehabilitation. (*Slavkin v. State Bar* (1989) 49 Cal.3d 894, 905 ["attorney suffering from alcohol or drug dependence generally must establish, by clear and convincing evidence, that his or her addictions are 'permanently under control.' [Citation.]"]; *Howard v.*

State Bar (1990) 51 Cal.3d 215, 222 [attorney has heavy burden to prove effective rehabilitation justifies reduction of discipline].) For this reason, we assign no weight in mitigation under standard 1.6(d).

3. Modest mitigation for cooperation by entering a stipulation (std. 1.6(e))

Under standard 1.6(e), an attorney may receive mitigating credit for "spontaneous candor and cooperation displayed to . . . the State Bar." The hearing judge did not find mitigation under this standard, but we accord modest weight because Coombs stipulated to a significant number of foundational facts and admitted to some culpability. However, we discount the mitigative weight to be given because Coombs's misleading responses to the investigators delayed the prosecution of this matter.

V. SIX-MONTH ACTUAL SUSPENSION IS THE APPROPRIATE DISCIPLINE

Our disciplinary analysis begins with the standards. (*In re Silverton* (2005) 36 Cal.4th 81, 91.) We are guided by standards 2.1(a) and 2.1(b), both of which apply to misappropriation cases. Standard 2.1(a) provides that disbarment is appropriate for intentional misappropriation "unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate." The hearing judge relied on standard 2.1(b), which states that "[a]ctual suspension is the presumed sanction for misappropriation involving gross negligence."

Coombs intentionally or with gross negligence misappropriated $485, which is less than the California Supreme Court has found to be a significant amount. (See, e.g., *Howard v. State Bar*, *supra*, 51 Cal.3d 215, 222-223 [no disbarment for intentional misappropriation of $1,300 which Court found to be "a relatively small sum"]; compare with *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1367-1368 [misappropriation of $1,355.75 not insignificantly small].) Thus, an actual suspension, but not disbarment, is the proposed discipline under either standard 2.1(a) or

2.1(b). But even though the sum misappropriated in this case was relatively small, "[m]isappropriation of a client's property is a gross violation of general morality likely to undermine public confidence in the legal profession and therefore merits severe punishment. [Citations.]" (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060.)

The hearing judge correctly observed that the "gravamen of respondent's misconduct was not only his one client abandonment, but more seriously, was his dishonesty to the State Bar." Yet she failed to give sufficient consideration to that dishonesty while also affording him mitigation for a discipline-free record, which was in error. As we now know *post facto*, the Supreme Court imposed discipline on Coombs in its June 26, 2015 order. Thus, we give no mitigation for the absence of a prior disciplinary record.

Finally, in reaching her recommendation of a 30-day actual suspension, the hearing judge noted that Coombs ultimately made restitution. But he did so 11 months after Jain filed a complaint with the State Bar. We therefore allow no mitigation for his restitutional payment. (*Grim v. State Bar* (1991) 53 Cal.3d 21, 32 ["Restitution paid under the force or threat of disciplinary proceedings is not a proper mitigating circumstance"].)

Coombs's repeated misrepresentations to the State Bar investigator and the absence of mitigation for an discipline-free record, tip the scale in favor of more significant discipline than that recommended by the hearing judge. As the Supreme Court found in *Cain v. State Bar* (1979) 25 Cal. 3d 956, 961: "'fraudulent and contrived misrepresentations to the State Bar' may constitute perhaps a 'greater offense' than misappropriation. [Citations.]" Under standard 2.11, "[d]isbarment or actual suspension is the presumed sanction" for acts of dishonesty or the concealing of a material fact.

In many respects, this case is similar to *Bates v. State Bar*, *supra*, 51 Cal.3d 1056, wherein the California Supreme Court imposed a six-month actual suspension. Bates

intentionally misappropriated client funds and misrepresented their status to the client's subsequent attorney. Similarly, Coombs's misappropriation involved moral turpitude, and he made misrepresentations to the State Bar about his client's funds. Both Bates and Coombs made restitution, but only after disciplinary proceedings had begun. While the amount Bates misappropriated was slightly greater than that misappropriated by Coombs, Bates showed more significant mitigation, particularly that his alcoholism was "'permanently under control.' [Citation.]" (*Bates v. State Bar*, *supra*, 51 Cal.3d at p. 1061.)

We note that when the Supreme Court decided *Bates*, the standards provided that the discipline for willful misappropriation "shall not be less" than one year of actual suspension irrespective of mitigating circumstances.[9] Under the current standards enacted July 1, 2015, actual suspension is recommended, but a minimum term is no longer specified. We apply the current standard, but also rely on the Supreme Court's reasoning and disposition in *Bates*.

We also find the case of *Howard v. State Bar*, *supra*, 51 Cal.3d 215, to be guiding. There, the attorney intentionally misappropriated approximately $1,300 in personal injury settlement funds and failed to communicate with her client. Howard challenged the one-year suspension recommended by this court, and the Supreme Court agreed that a six-month suspension was sufficient for public protection. The Supreme Court was persuaded that Howard had established her successful recovery from alcohol and chemical dependency, which resulted from psychological problems since childhood. Also, she had not used alcohol or drugs for approximately two and one-half years at the time of her trial. (*Id.* at p. 223.) Similarly, the

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[9] Former standard 2.2(a), enacted in 1986, was replaced by standard 2.1(a) on January 1, 2014, which was then revised effective July 1, 2015. Former standard 2.2(a) provided "[c]ulpability of a member of wilful misappropriation of entrusted funds or property shall result in disbarment. Only if the amount of funds or property misappropriated is insignificantly small or if the most compelling mitigating circumstances clearly predominate, shall disbarment not be imposed. In those latter cases, the discipline shall not be less than a one-year actual suspension, irrespective of mitigating circumstances."

Court gave little weight to Howard's payment of restitution because her repayment occurred five months after promising her client she would do so and then only after being served with a lawsuit. (*Id.* at p. 222.)

Given the standards and the relevant case law, we find that a six-month suspension is appropriate to serve the goals of attorney discipline. We reject, however, OCTC's argument that the six-month suspension should be conditioned on Coombs's proof of rehabilitation and fitness to practice law before he is reinstated, pursuant to standard 1.2(c)(1). Instead, we recommend a lengthy, three-year probationary period during which Coombs must, inter alia, abstain from using alcoholic beverages, attend an abstinence program, submit to monthly testing by a licensed medical laboratory, and provide the results or screening reports to the Office of Probation of the State Bar.

VI. RECOMMENDATION

For the foregoing reasons, we recommend that Richard Edward Coombs be suspended from the practice of law for one year, that execution of that suspension be stayed, and that he be placed on probation for three years on the following conditions:

1. He is suspended from the practice of law for the first six months of the period of his probation.

2. Within one year after the effective date of discipline, Coombs must make restitution to Raman Jain in the amount of $750 plus 10 percent interest per annum from March 27, 2013 (or reimburse the Client Security Fund to the extent of any payment from the Fund to Raman Jain, in accordance with Business and Professions Code section 6140.5) and furnish satisfactory proof to the State Bar Office of Probation in Los Angeles.

3. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.

4. Within 30 days after the effective date of discipline, he must contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation. Upon the direction of the Office of Probation, he must meet with the probation deputy either in person or by telephone. During the period of probation, he must promptly meet with the probation deputy as directed and upon request.

5. Within 10 days after 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 his current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, he must report such change in writing to the Membership Records Office and the State Bar Office of Probation.

6. He must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.

7. Subject to the assertion of applicable privileges, he must answer fully, promptly, and truthfully, any inquiries of the Office of Probation directed to him personally or in writing, relating to whether he is complying or has complied with the conditions contained herein.

8. Within one year after the effective date of the discipline herein, he 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 he shall not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

9. He must abstain from using alcoholic beverages and must not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.

10. Commencing within one month after the effective date of discipline, he must attend at least four meetings per week of an abstinence program, such as Alcoholics Anonymous or Other Bar, and must obtain written approval from the Office of Probation for the program he has selected prior to attending the first meeting.

11. Within two weeks after the effective date of discipline, he must select a licensed medical laboratory approved by the Office of Probation. Coombs must arrange to have the laboratory perform, on a monthly basis and at his expense, an ethyl glucuronide (EtG) test and a ten-panel drug test for amphetamines, methamphetamines, barbiturates, benzodiazepines, cocaine metabolite, opiates, oxycodone, marijuana, methadone, and propoxyphene. These tests must be performed by a laboratory pursuant to Department of Transportation guidelines and testing must be observed. He must comply with all laboratory requirements regarding specimen collection and the integrity of specimens. He must be tested within the first three days of each month of the probation period and must cause the laboratory to provide to the Office of Probation, within one week of testing and at his expense, the results or screening reports from such tests.

12. He must maintain with the Office of Probation a current telephone number at which he can be reached. He must return any call from the Office of Probation concerning substance testing within 12 hours. For good cause, the Office of Probation may require him to have

additional tests as described above performed by the laboratory no later than six hours after actual notice to him that the Office of Probation requires additional testing or additional screening reports.

13. The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the period of probation, if he has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

VII. PROFESSIONAL RESPONSIBILITY EXAMINATION

We do not recommend that Coombs be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners since the Supreme Court previously ordered him to do so in Supreme Court case number S226111 on June 26, 2015.

VIII. RULE 9.20

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

IX. COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

EPSTEIN, J.

WE CONCUR:

PURCELL, P. J.

HONN, J.

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. 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 March 3, 2016, I deposited a true copy of the following document(s):

OPINION FILED MARCH 3, 2016

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

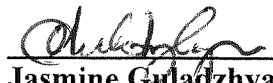
[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

RICHARD E. COOMBS
LAW OFFICES OF RICHARD E. COOMBS
PO BOX 2421
CARMICHAEL, CA 95609

[X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ALLEN BLUMENTHAL, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 3, 2016.



Jasmine Guladzhyan
Case Administrator
State Bar Court