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STATE BAR COURT  
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# PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of	)	Case No.: 14-PM-04223-RAP
	)	
LOUIS JOSEPH FERRARA,	)	ORDER GRANTING MOTION TO REVOKE
	)	PROBATION AND ORDER OF
Member No. 73345,	)	INVOLUNTARY INACTIVE ENROLLMENT
	)	(Bus. & Prof. Code, § 6007, subd. (d)(1))
A Member of the State Bar.	)	

## Introduction<sup>1</sup>

The Office of Probation of the State Bar of California (Probation Office), represented by Supervising Attorney Terrie Goldade, filed a motion seeking to revoke the three-year disciplinary probation that the Supreme Court imposed on Respondent **LOUIS JOSEPH FERRARA**<sup>2</sup> in its November 28, 2012, order in *In re Louis Joseph Ferrara on Discipline*, case number S204144 (State Bar Court case number 11-O-14893) (*Ferrara I*). (§ 6093, subds. (b); Rules Proc. of State Bar, rule 5.310 et seq.) Respondent did not participate in this probation revocation proceeding.

As set forth below, the court finds, by a preponderance of the evidence (§ 6093, subd. (c); Rules Proc. of State Bar, rule 5.311), that Respondent willfully violated five out of the eight conditions of his probation. Accordingly, the court will grant the motion to revoke probation and

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<sup>1</sup> Unless otherwise indicated, all statutory references are to the Business and Professions Code and all references to rules are to the State Bar Rules of Professional Conduct.

<sup>2</sup> Respondent was admitted to the practice of law in California on December 30, 1976, and has been a member of the State Bar of California since that time. As discussed *post*, Respondent has one prior record of discipline.

recommend, inter alia, that Respondent be actually suspended from the practice of law for three years and until he establishes his rehabilitation, fitness to practice, and learning and ability in the general law in accordance with standard 1.2(c)(1) of the Standards for Attorney Sanctions for Professional Misconduct.<sup>3</sup> In addition, the court will order Respondent's involuntary inactive enrollment under section 6007, subdivision (d)(1).

### Procedural History

On August 5, 2014, the Probation Office filed and properly served the motion to revoke probation on Respondent by certified mail, return receipt requested, at his latest address shown on the official membership records of the State Bar of California. (§ 6002.1, subd. (c); Rules Proc. of State Bar, rules 5.25, 5.314(A); *Bowles v. State Bar* (1989) 48 Cal.3d 100, 107-108 [service in a State Bar Court proceeding is deemed complete when mailed even if the attorney does not receive the pleading]; but see also *Jones v. Flowers* (2006) 547 U.S. 220, 224-227, 234.) On August 5, 2014, the Probation Office also mailed a courtesy copy of the motion to Respondent at his latest address on the State Bar's records by first class mail, regular delivery.

The Probation Office did not request a hearing on its motion to revoke probation.<sup>4</sup>

Respondent never filed a response to the motion to revoke probation, and the time for Respondent to do so under Rules of Procedure of the State Bar, rule 5.314(B) has expired.

On September 8, 2014, the court took the motion to revoke probation under submission for decision without a hearing.

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<sup>3</sup> The standards are located in title IV to the Rules of Procedure of the State Bar. All further references to standards are to this source.

<sup>4</sup> Rules of Procedure of the State Bar, rule 5.314 does not authorize and the court does not accept conditional requests for hearings such as the one included in the present motion.

### Findings of Fact and Conclusions of Law

The court admits exhibits 1, 2, and 3 to the motion to revoke probation into evidence. (Rules Proc. of State Bar, rule 5.314(H).)

Because Respondent failed to file a response to the motion to revoke probation, the court treats as admissions the *factual* allegations (not the legal conclusions or the charges) in the motion and in its three exhibits. (Rules Proc. of State Bar, rule 5.314(C).)

In its November 28, 2012, order in *Ferrara I*, the Supreme Court placed Respondent on three years' stayed suspension and three years' probation with conditions, including a two-year actual suspension continuing until Respondent complies with standard 1.4(c)(1). The Supreme Court imposed that discipline, including each of the probation conditions, on Respondent in accordance with a stipulation regarding facts, conclusions of law, and disposition that Respondent entered into with the Office of the Chief Trial Counsel of the State Bar of California (OCTC) and which the State Bar Court approved in an order filed on May 30, 2012, in *Ferrara I* (*Ferrara I* stipulation). Thus, Respondent's misconduct here results from his repeated failures to comply with his own agreement.

The Supreme Court's November 28, 2012, order in *Ferrara I* became effective on December 28, 2012, and has continuously remained in effect since that time. At all times material to the motion to revoke probation, Respondent had actual knowledge of that order.

#### **Probation Violations**

##### **Probation-Deputy-Meeting Condition**

Under Respondent's probation-deputy-meeting condition, Respondent was required, within 30 days from the effective date of discipline, to contact the Probation Office and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of his probation and to thereafter meet with the probation deputy as directed by the Probation Office.

The record establishes, as charged, that Respondent willfully violated his probation-deputy-meeting condition by failing to contact the Probation Office to schedule a meeting with his probation deputy within 30 days from the effective date of discipline. Respondent did not contact the Probation Office to set up a meeting until April 5, 2013.

**Probation-Reporting Condition**

Respondent's probation-reporting condition requires, inter alia, that Respondent submit written-quarterly-probation reports to the Probation Office on every January 10, April 10, July 10, and October 10. The record establishes, as charged, that Respondent willfully violated his probation-reporting condition (1) by submitting his probation report due on April 10, 2013, on April 23, 2013; (2) by submitting his probation report due on April 10, 2014, on April 14, 2014; and (3) by submitting his probation report due on July 10, 2014, on July 11, 2014.

**Restitution Condition**

Respondent's restitution condition required that Respondent pay the State Bar of California \$3,898.75 in two equal installments with his State Bar membership fees for the 2013 and 2014 calendar years and to provide proof of each payment to the Probation Office "with the next quarterly report due following each payment." The record establishes, as charged, that Respondent willfully violated his restitution condition by failing to provide proof that he made his installment payments with his membership fees for 2013 and 2014. The court notes that Respondent was not charged with failing to make his two installment payments, but only with failing to provide the Probation Office with proof of those payments.

**MCLE Condition**

Respondent's minimum-continuing-legal-education condition (MCLE condition) required that, within one year of the effective date of discipline, Respondent provide the Probation Office with proof that he is in compliance with the State Bar's minimum-continuing-

legal-education program. The record establishes, as charged, that Respondent willfully violated his MCLE condition by failing to provide proof that he is in compliance with the State Bar's minimum-continuing-legal-education program within one year of the effective date of discipline. Respondent has still never provided the required proof to the Probation Office.

#### **Legal-Ethics-Education Condition**

Respondent's legal-ethics-education condition required that, within one year of the effective date of the *Ferrara I* stipulation, Respondent complete six hours of continuing legal education in legal ethics and to provide proof thereof to the Probation Office within thirty days thereafter. The record establishes, as charged, that Respondent willfully violated his legal-ethics-education condition by failing to provide proof of completion of any continuing legal education in legal ethics within one year of the effective date of the *Ferrara I* stipulation.

#### **Aggravation**

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

Respondent has one prior record of discipline. In his prior record of discipline, *Ferrara I*, the Supreme Court placed Respondent on three years' stayed suspension and three years' probation on conditions, including a two-year actual suspension, because as Respondent stipulated (1) he engaged in the unauthorized practice of law in a sister state (rule 1-300(B)) from September 2006 through August 2011; (2) by falsely holding himself out to the public and by falsely certifying twice to the National Labor Relations Board that he was licensed and authorized to practice law in California when he was actually suspended from the practice of law by order of the California Supreme Court for failing to pay his State Bar membership fees (§ 6106); (3) by misappropriating (i.e., stealing) \$1,200 from his local union (§ 6106); and (4) by failing to maintain his current address with the State Bar of California (§ 6068, subd. (j)).

In *Ferrara I*, in aggravation, Respondent stipulated to two uncharged counts of failing to refund unearned fees (rule 3-700(D)(2)). In mitigation, Respondent had 21 years of misconduct free practice.

In Respondent's second prior record of discipline, *Ferrara II*, Respondent stipulated to one year's stayed suspension and two years' probation on conditions, including a thirty-day period of actual suspension. Respondent also stipulated to the following four ethical violations in a single client matter: failing to account for an advanced fee (rule 4-100(B)(3)); failing to perform (rule 3-110(A)); failing to communicate (§ 6068, subd. (m)); and failing to pay court ordered sanctions (§ 6103). Respondent also stipulated to the following three aggravating circumstances: prior record of discipline; client harm; and multiple acts of misconduct. In mitigation, Respondent entered into a pretrial stipulation of facts, culpability, and discipline.

#### **Multiple Acts of Misconduct (Std. 1.5(b).)**

Respondent's present misconduct involves multiple violations of probation.

#### **Mitigation**

There is no evidence of any mitigating circumstance as Respondent did not appear.

#### **Discussion**

Public protection and attorney rehabilitation are the primary goals of attorney disciplinary probation. (*In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445, 452.)

“[T]here has been a wide range of discipline imposed for probation violations from merely extending probation . . . to a revocation of the full amount of the stayed suspension and imposition of the amount as an actual suspension.” (*In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.)

In determining the appropriate level of discipline in a probation revocation proceeding, the court is to consider the “total length of stayed suspension which could be imposed as an

actual suspension and the total amount of actual suspension earlier imposed as a condition of the discipline at the time probation was granted.” (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) The court is to also consider the seriousness of the probation violations, the Respondent’s recognition of his or her misconduct, and the Respondent’s efforts to comply with the conditions of probation. (*Ibid.*)

Furthermore, “[t]he violation of a probation condition significantly related to the attorney’s prior misconduct merits the greatest discipline, especially if the violation raises a serious concern about the need to protect the public or shows the attorney’s failure to undertake steps toward rehabilitation.” (*In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 151.) “The degree of discipline ultimately imposed must, of necessity, correspond to some reasonable degree with the gravity of the misconduct at issue.” (*In re Nevill* (1985) 39 Cal.3d 729, 735.)

In addition, the court considers standard 1.8(a), which provides:

If a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.

An attorney’s failure to strictly comply with the conditions of his or her disciplinary probation “ ‘demonstrates a lapse of character and a disrespect for the legal system that directly relate to [the attorney’s] fitness to practice law and serve as an officer of the court. [Citation.]’ [Citation.]” (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 530.)

The court concludes that Respondent’s willful violations of five out of the eight conditions attached to his probation establish that Respondent has not undertaken any meaningful steps toward rehabilitation from his extremely serious prior misconduct. Accordingly, the court concludes that it is appropriate to recommend the greatest level of

discipline available – the imposition of the full three-year stayed suspension (Rules Proc. of State Bar, rule 5.312) which will continue until Respondent complies with standard 1.4(c)(1).<sup>5</sup>

The court does not recommend that Respondent be again ordered to take and pass a professional responsibility examination because he was ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) in the Supreme Court's November 28, 2012, order in *Ferrara I*. That portion of the Supreme Court's November 28, 2012, order will remain in effect even after Respondent's probation is revoked in this proceeding. Accordingly, if Respondent fails to take and pass the MPRE within the time prescribed in the Supreme Court's November 28, 2012, order (or as it may be modified by the State Bar Court), Respondent will be suspended from the practice of law until he provides proof that he has passed the examination. (*Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.)

#### **Order and Discipline Recommendation**

The court orders that the Office of Probation's August 5, 2014, motion to revoke probation is GRANTED. Accordingly, the court recommends that the probation imposed on Respondent **LOUIS JOSEPH FERRARA** in the Supreme Court's November 28, 2012, order in case number S204144 (State Bar Court case number 11-O-14893), be revoked; that the stay of execution of the three-year suspension be lifted; and that Respondent be suspended from the practice of law in the State of California for three years (with credit given for the period of involuntary inactive enrollment (Bus. & Prof. Code, § 6007, subd. (d)(3)) and until Respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and

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<sup>5</sup> Because the Probation Office did not charge or prove that Respondent violated his restitution condition by failing to pay the State Bar \$3,898.75, the court rejects the Probation Office's request that Respondent's actual suspension continue until he pays the State Bar \$3,898.75. Nonetheless, whether Respondent has paid the State Bar the \$3,898.75 in restitution may be appropriately addressed in any future standard 1.4(c)(1) proceeding.



ability in the general law in accordance with standard 1.2(c)(i) of the Standards for Attorney Sanctions for Professional Misconduct.

**Rule 9.20 & Costs**

The court further recommends that **LOUIS JOSEPH FERRARA** be ordered to comply again with California Rules of Court, rule 9.20 and to again 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 probation revocation proceeding.

Finally, the court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**Order of Involuntary Inactive Enrollment**

The requirements set forth in Business and Professions Code section 6007, subdivision (d)(1) having been met, the court orders that **LOUIS JOSEPH FERRARA** be involuntarily enrolled as an inactive member of the State Bar of California under Business and Professions Code section 6007, subdivision (d)(1) effective three calendar days after service of this order by mail. (See also Bus. & Prof. Code, § 6007, subd. (d)(2); Rules Proc. of State Bar, rule 5.315.)

Dated: October 2, 2014.

  
**RICHARD A. PLATEL**  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 3, 2014, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO REVOKE PROBATION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

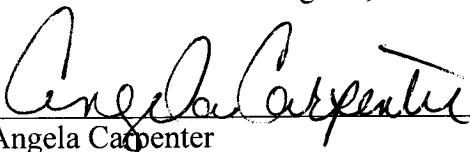
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

LOUIS JOSEPH FERRARA  
3625 W BOWLES AVE # 19  
PMB 49  
LITTLETON, CO 80123

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

TERRIE GOLDADE, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 3, 2014.

  
\_\_\_\_\_  
Angela Carpenter  
Case Administrator  
State Bar Court