



# PUBLIC MATTER

FILED

AUG 23 2016

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

## STATE BAR COURT OF CALIFORNIA

### HEARING DEPARTMENT - LOS ANGELES

In the Matter of	)	Case No.: 15-O-10800-YDR
	)	
<b>KENNETH EDWARD OSTROVE,</b>	)	<b>DECISION</b>
	)	
Member No. 111222,	)	
	)	
<u>A Member of the State Bar.</u>	)	

#### Introduction<sup>1</sup>

Kenneth Edward Ostrove (Respondent) is charged with four counts of misconduct in one client matter. The Office of Chief Trial Counsel of the State Bar of California (State Bar) has the burden of proving these charges by clear and convincing evidence.<sup>2</sup> This court finds that there is clear and convincing evidence demonstrating that Respondent is culpable of willfully violating a single count of rule 3-700(A)(2) (improper withdrawal from employment). The court recommends that Respondent 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 probation for a period of two years subject to a 30-day actual suspension.

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<sup>1</sup> 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.

<sup>2</sup> 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.)

### **Significant Procedural History**

The State Bar initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) on November 16, 2015. On February 23, 2016, Respondent filed a response to the NDC.

The parties filed a Stipulation as to Facts and Admission of Documents on May 25, 2016. A single-day trial was held on May 19, 2016. The State Bar was represented by Deputy Trial Counsel Hugh G. Radigan. Respondent represented himself. On May 25, 2016, the court took this matter under submission. The State Bar and Respondent filed their closing argument briefs on June 3, 2016.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on December 21, 1983 and has been a member of the State Bar of California at all times since that date. These findings of fact are based on the record, evidence admitted at trial, and limited facts set forth by the parties in their factual stipulation.

#### **Case No. 15-O-10800 – The Harris Matter**

##### **Facts**

James Harris is a 79-year old man who worked as a musician upon his retirement from the United States Army in 1969. After his wife died in 2007, Harris applied for his wife's pension benefits from AT&T, but AT&T denied his claim.

In 2012, Harris found Respondent's name and telephone number in a newsletter. He called Respondent and asked Respondent to represent him in an effort to obtain his deceased wife's pension benefits. About one week following Harris' initial phone call, Respondent met with Harris at Harris' home. Harris provided Respondent with preliminary information about his matter and provided Respondent with a file containing documents related to the benefit claim. Respondent told Harris he would review the documents and "look into the matter." Respondent

never presented Harris with a written fee agreement, and the two never discussed Respondent's fees. Harris believed that Respondent agreed to represent him because after discussing his matter, Respondent indicated "I'll see what I can do."

During the first six months following their initial meeting, Harris and Respondent spoke at least three times. Respondent never provided Harris an evaluation of Harris' matter, and he offered him no substantive legal advice. Respondent testified that their conversations were brief, informal discussions where they exchanged pleasantries. Respondent also indicated that Harris informed him that he spoke to another attorney and a judge about his matter. Respondent continued to advise Harris that he was "looking into" his matter. Thereafter in 2013 and 2014, Harris called Respondent at least once per month to find out the status of his case. On some occasions, Harris left messages and other times, he just hung up. Respondent never responded to these phone calls.

Since Respondent did not respond to Harris' inquiries, Harris sought assistance from attorney Andrew Wolfberg in July 2014. Initially, Wolfberg encouraged Harris to persist with trying to communicate with Respondent, but by January 2015, Respondent still had not responded to Harris' messages. Thus, on or about January 13, 2015, Wolfberg assisted Harris with preparing and submitting a complaint to the State Bar. Additionally, Wolfberg drafted a letter to Respondent dated March 10, 2015, that Harris signed. The letter provides, "You promised to help me get my wife's pension," and "[i]t has been a very long time and you have not provided me with a status on my case." The letter concludes with Harris requesting a return of the file and the documents Harris provided Respondent in 2012. Respondent did not respond to Harris' letter.

Respondent testified that he never considered Harris a client. He never told Harris that he would represent him. When he indicated he would "look into" Harris' matter, he only meant he

would investigate the matter, not that he would represent Harris in obtaining Harris' wife's pension benefits. When Respondent did communicate with Harris, Respondent never informed him that he was not Harris' attorney. Respondent acknowledged that Harris' March 2015 letter put him on notice that Harris believed Respondent was his attorney, but Respondent did not respond to Harris' letter because he was representing himself in divorce proceedings.

On or about July 17, 2015, Respondent provided Harris with Harris' original documents.

### **Conclusions**

***Count One - (Rule 3-110(A) [Failure to Perform Legal Services with Competence])<sup>3</sup>***

***Count Two - (§ 6068, subd. (m) [Failure to Communicate])<sup>4</sup>***

***Count Four - (Rule 3-700(D)(1) [Failure to Return Client Papers/Property])<sup>5</sup>***

In Count One, the State Bar charged Respondent with intentionally, recklessly, or repeatedly failing to perform legal services by taking no meaningful steps towards obtaining monetary benefits from Harris' late wife's pension plan, in violation of rule 3-110(A). In Count Two, Respondent is charged with failing to promptly respond to Harris' reasonable status inquiries. In Count Four, the State Bar charged Respondent with willfully violating rule 3-700(D)(1) by failing to return Harris' file upon termination of Respondent's employment. As set forth below, the facts that support a culpability finding for each of these charges are duplicative

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<sup>3</sup> Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence

<sup>4</sup> Section 6068, subdivision (m), provides that an attorney has a duty to promptly respond to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

<sup>5</sup> Rule 3-700(D)(1) requires an attorney, upon termination of employment, to promptly release to the client, at the client's request, all client papers and property, subject to any protective order or non-disclosure agreement. This includes pleadings, correspondence, exhibits, deposition transcripts, physical evidence, expert's reports and other items reasonably necessary to the client's representation, whether the client has paid for them or not.

of the facts that support the culpability finding for the improper withdrawal charge in Count Three. (*In the Matter of Wolff* (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1, 10-11 [facts surrounding failure to perform duplicative of facts surrounding improper withdrawal]; *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 536 [section 6068, subd. (m) violation dismissed as duplicative of rule 3-700(A)(2) charge]; *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 280-281 [failure to return client file was one basis for finding respondent culpable of violating rule 3-700(D)(1)].) Thus, Counts One, Two and Four are dismissed with prejudice. (See *Furey v. Commission on Judicial Performance* (1987) 43 Cal.3d 1297, 1307 [although filing duplicative charges are proper if supported by evidence, duplicative finding of misconduct is nevertheless dismissed when identical facts underlie multiple allegations of misconduct].)

***Count Three - (Rule 3-700(A)(2) [Improper Withdrawal from Employment])<sup>6</sup>***

The NDC charged Respondent with willfully violating rule 3-700(A)(2) by withdrawing from employment without taking reasonable steps to avoid reasonably foreseeable prejudice to Harris. A rule 3-700(A)(2) violation may be established whether or not prejudice actually occurs. (*In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91, 115.) Respondent asserts that he is not culpable of any misconduct because Harris was not his client. The court rejects this argument and finds that an attorney-client relationship existed.

Although no fee agreement existed between Respondent and Harris, and Respondent maintains that he agreed to merely investigate Harris' benefits claim, these facts do not preclude the existence of an attorney-client relationship. (*Miller v. Metzinger* (1979) 91 Cal.App.3d 31,

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<sup>6</sup> Rule 3-700(A)(2) prohibits an attorney from withdrawing from employment until the attorney has taken reasonable steps to avoid reasonably foreseeable prejudice to the client's rights, including giving due notice to the client, allowing time for the employment of other counsel, and complying with rule 3-700(D) and other applicable rules and laws.

39 [“absence of an agreement with respect to the fee to be charged” and attorney’s statements that “his function was purely investigatory” does not prevent the attorney-client relationship from arising].) Harris reasonably believed that he had an attorney-client relationship with Respondent because during the conversations after their initial meeting, Respondent never told Harris that he did not represent him,<sup>7</sup> Respondent repeatedly told Harris that he was looking into his matter, and Respondent kept Harris’ documents over a year without returning them. Respondent’s failure to explain that he did not represent Harris after receiving Harris’ March 2015 letter further supports the existence of an attorney-client relationship. The facts demonstrate that Respondent “led [Harris] reasonably to believe he was representing him, that it must have been clear to [Respondent] that [Harris] was led to so believe, and that [Respondent] did not advise [Harris] that he was not a client.” (*Butler v. State Bar* (1986) 42 Cal.3d 323, 329.) As such, the court finds that Respondent and Harris had an attorney-client relationship.

Respondent failed to provide any service of value to Harris. He had Harris’ file from 2012 until July 2015, yet he never provided Harris an evaluation of his claim or even contacted AT&T about Harris’ matter. Respondent failed to respond to Harris’ numerous status inquiry phone calls beginning in 2013. With no legal services provided and no communication from Respondent for at least 18 months,<sup>8</sup> it is clear that Respondent abandoned Harris and withdrew from representing him. After Respondent’s withdrawal, Harris requested his file in a March 10, 2015 letter, yet Respondent never answered the letter, and it was not until the State Bar’s

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<sup>7</sup> Respondent testified that during the conversations he and Respondent explained pleasantries but did not discuss Harris’ matter. This court does not find Respondent’s testimony credible.

<sup>8</sup> Respondent met with Harris in 2012. Respondent acknowledged that he and Harris communicated during the first six months after their initial meeting. The latest date that their initial meeting could have occurred was December 2012. The last time Respondent could have spoken to Harris was in June 2013. Thus, Respondent failed to respond to Harris’ status inquiries for at least 18 months – June 2013 through December 2014.

involvement that Respondent returned Harris' file on July 17, 2015.<sup>9</sup> Respondent's complete failure to work on Harris' matter after obtaining Harris documents in 2012, his failure to communicate with Harris after 2013, and his failure to promptly return Harris' file upon Harris' request provide clear and convincing evidence that Respondent abandoned Harris, in willful violation of rule 3-700(A)(2).

### **Aggravation<sup>10</sup>**

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Std. 1.5.) The court finds the following with regard to aggravating circumstances.

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

##### ***Ostrove I***

Effective May 28, 2015, the Supreme Court suspended Respondent for one year, stayed, and placed him on probation for two years with an actual suspension of 90 days. Pursuant to a stipulation that Respondent signed on December 8, 2014, Respondent acknowledged his misconduct in three client matters. In the first matter, Respondent failed to provide legal services with competence when he failed to finalize a probate matter, failed to respond to his client's status inquiries in May 2010, June 2013 and June 2014, and failed to keep his client reasonably informed of significant developments. In the second matter, Respondent failed to respond to reasonable status inquiries in 2013 and 2014, failed to provide an accounting, failed to cooperate, and failed to refund unearned fees. In the third client matter, Respondent failed to

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<sup>9</sup> Under the express terms of rule 3-700(A)(2), after an attorney has withdrawn from employment, the attorney's failure to provide the client with his or her file as outlined in rule 3-700(D)(1) is a portion of conduct "properly disciplinable as a violation of rule 3-700(A)(2)." (*In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 280.)

<sup>10</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

provide legal services with competence when he failed to pursue a probate matter on behalf of a client, failed to respond to reasonable status inquiries in 2014, failed to provide an accounting, failed to promptly pay out entrusted funds, and failed to deposit \$1,500 in advance costs into a client trust account. Respondent's misconduct was aggravated by multiple acts of misconduct, client harm, and indifference, but tempered by 30 years of discipline-free practice, family problems, cooperation and good character.

### *Ostrove II*

In the second prior, the Supreme Court issued an order (S224490) in June 21, 2016,<sup>11</sup> revoking Respondent's probation in *Ostrove I* and suspending Respondent for one year, stayed, and placing him on probation for two years subject to conditions, including a 120-day actual suspension. Respondent's probation was revoked because he violated the terms of his probation. Respondent filed an untimely quarterly report, submitted an untimely law office management/organization plan, failed to provide adequate proof that he paid restitution, and failed to obtain psychiatric or psychological treatment for one month. His prior record was an aggravating circumstance. His belated completion of the restitution requirement and efforts to obtain psychiatric/psychological treatment were mitigating factors.

Respondent's prior discipline is an aggravating factor, but the aggravating weight is diminished because the misconduct in *Ostrove I* occurred contemporaneously with the misconduct in the instant proceeding. (*In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618-619 [aggravating force of prior discipline generally diminished if underlying misconduct occurred during period of present misconduct].) The misconduct in *Ostrove I* occurred from 2010 through December 3, 2014. Respondent had already abandoned

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<sup>11</sup> The court takes judicial notice of the Supreme Court order No. S224490 (State Bar Court case No. 15-PM-15232) filed on June 21, 2016.



Harris by the time his signed the *Ostrove I* stipulation on December 8, 2014. Thus, although the current misconduct was similar to the misconduct in *Ostrove I*, it does not demonstrate a continuing unwillingness or inability to conform his conduct to ethical norms. (*In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. at p. 619 [“part of the rationale for considering prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney’s inability to conform his or her conduct to ethical norms [citation]”].)

The court is mindful that Respondent’s last act of misconduct in the 3-700(A)(2) violation occurred in March 2015 when Respondent failed to promptly return Harris’ file. But, none of the misconduct in *Ostrove I* or *Ostrove II* involved misconduct of that nature. As such, Respondent’s priors did not put him on notice that his conduct was disciplinable, and he did not continue to commit similar violations.

Respondent’s prior record of discipline is afforded minimal weight.

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

Although Respondent is culpable of a single violation of rule 3-700(A)(2), Respondent repeatedly failed to respond to Harris’ reasonable status inquiries, failed to provide Harris with any legal services, and failed to promptly return Harris’ file. Respondent’s violation of rule 3-700(A)(2) involved multiple acts of wrongdoing.

#### **Mitigation**

It is Respondent’s burden to prove mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds the following with regard to mitigating circumstances.

#### **Family Problems**

Respondent experienced serious marital difficulties in 2012. His wife filed for a divorce in September 2012, and he and his wife shared joint custody of his 12 and 15 year old daughters. He became responsible for his law practice, household and parenting duties. Respondent

represented himself during the divorce proceedings. The judgment of dissolution was entered on December 17, 2013, but marital property rights issues persisted through June 2014. Respondent is afforded moderate mitigation for his marital/family problems. (*Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1364 [lay testimony regarding marital difficulties afforded mitigation credit].)

### **Community Service Activities**

Respondent has been a member of Temple Israel for 17 years. Currently, Respondent is a member of the board of Trustees. Over the last 12 years, he has been involved with an annual event that provides toiletries and a Christmas dinner for the homeless. Respondent has been administering the event as the chairperson for the last seven years. The mitigating weight of Respondent's community service endeavors is moderate.

### **Discussion**

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession, to preserve public confidence in the profession; and to maintain high professional standards for attorneys. (Std. 1.1.) Since the misconduct involved in this case occurred contemporaneously with the misconduct in *Ostrove I*, the court considers "the totality of the findings in the two cases to determine what the discipline would have been had all the charged misconduct in this period been brought as one case." (*In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. at p. 619.) The misconduct found in both cases occurred from 2010 through early 2015 and involved thirteen counts of misconduct in four client matters. Respondent's misconduct involved the failure to perform or the abandonment of clients. Multiple acts of misconduct, harm to one client,<sup>12</sup> and indifference comprise the aggravating factors in *Ostrove I* and the current proceedings. The mitigating factors are 30 years of

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<sup>12</sup> The client harm aggravated Respondent's misconduct in *Ostrove I*. Respondent failed to finalize the probate for his client. As a result, the decedent's estate incurred personal property storage expenses and real property taxes.

discipline-free practice, family problems,<sup>13</sup> cooperation, and good character resulting from Respondent's community service.

In determining the 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.) While they are guidelines for discipline and are not mandatory, they are given great weight to promote consistency. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Moreover, the Supreme Court has instructed that the standards should be followed "whenever possible." (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Standard 2.7(b) is the most apt. It provides, "actual suspension is the presumed sanction for performance, communication, or withdrawal violations in multiple client matters, not demonstrating habitual disregard of client interests." (Std. 2.7(b).)

The State Bar argues that the appropriate discipline level is a two-year actual suspension and until Respondent proves his rehabilitation and fitness to practice law, pursuant to standard 1.2(c)(1). The State Bar cites *In the Matter of Brockway* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944 to support its position. The court in *Brockway* determined that "[g]enerally, where four to six clients have been abandoned or suffered from incompetent representation, the discipline has included an actual suspension of two years. [Citation.]" (*Ibid.* at p. 961.) Although *Brockway* involved four clients who were abandoned or received incompetent representation, the case involved aggravating circumstances of moral turpitude for the overreaching of vulnerable clients and a prior discipline record. Moreover, in reaching the discipline determination, the court relied on cases where the attorney harmed vulnerable or

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<sup>13</sup> In *Ostrove I*, Respondent's financial and marital difficulties were considered "family problems," which were mitigating. Respondent's psychiatrist established a nexus between Respondent's personal problems and his misconduct. Respondent started treatment in October 2013 and at the time, he was in compliance with his treatment.

unsophisticated clients and had one prior (*Bernstein v. State Bar* (1990) 50 Cal.3d 221; *Nizinski v. State Bar* (1975) 14 Cal.3d 587); or the attorney defaulted in the proceedings and had very little mitigation that was far outweighed by the aggravating factors. (*In the Matter of Bailey* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220.) Those circumstances are not indicated in Respondent's case. Given these distinctions, *Brockway, supra*, is not particularly persuasive.

In addition to the standards, this court is guided by two cases to determine the appropriate level of discipline – *Matthew v. State Bar* (1989) 49 Cal.3d 784 and *In the Matter of Peterson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 73. In *Matthew*, the Supreme Court suspended an attorney for 60 days. The attorney committed misconduct over a two-year period that included the failure to perform competently and return unearned fees in three client matters. The attorney demonstrated indifference and his clients suffered financial and other harm. The attorney's brief career was not a weighty mitigating factor.

In *In the Matter of Peterson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 73, an attorney with no prior record received a one-year suspension for abandoning three clients and failing to respond to the State Bar's investigation letters. The attorney's misconduct involved moral turpitude based on his repeated and protracted deceit in two of the client matters. The misconduct was aggravated by multiple acts of wrongdoing, indifference, lack of candor and cooperation with the victims, and client harm – one client's cause of action was barred by the statute of limitations, and the attorney's inaction hurt another client's case due to a change in the law. No mitigating factors were found.

Respondent's misconduct falls in between the misconduct in *Matthew, supra*, 49 Cal.3d 784 and *Peterson, supra*, 1 Cal. State Bar Ct. Rptr. 73. Respondent's ethical violations involved four rather than three clients and extended for a longer period of time than the misconduct in

*Matthew*. In contrast to *Peterson*, Respondent's misconduct involved much less harm, more mitigation, and did not involve deceit.

Based on the totality of the misconduct in the current disciplinary proceeding and *Ostrove I*, the aggravating factors that are outweighed by the mitigating circumstances, and guided by prior decisions, a 120-day period of suspension is appropriate to protect the public, the courts and the legal profession. Thus, since Respondent has completed 90 days of the recommended suspension pursuant to *Ostrove I*, the court recommends a 30-day suspension for this proceeding.

### **Recommendations**

It is recommended that respondent Kenneth Edward Ostrove, State Bar Number 111222, 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 probation<sup>14</sup> for a period of two years subject to the following conditions:

1. Respondent 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 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.
4. 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.

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<sup>14</sup> 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.)

5. Respondent 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, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's 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.
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 monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.

At the expiration of the probation period, if respondent has complied with all conditions of probation, respondent will be relieved of the stayed suspension.

It is not recommended that respondent be ordered to complete State Bar Ethics School because he was previously ordered to do so in Supreme Court case No. S224490.

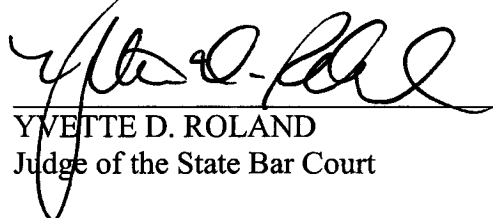
#### **Multistate Professional Responsibility Examination**

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because he was previously ordered to do so in Supreme Court case No. S224490, filed on April 28, 2015. Failure to pass the MPRE within the specified time results in actual suspension by the Review Department, without further hearing, until passage.

#### **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: August 23, 2016

  
YVETTE D. ROLAND  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

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

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 23, 2016, I deposited a true copy of the following document(s):

### DECISION

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

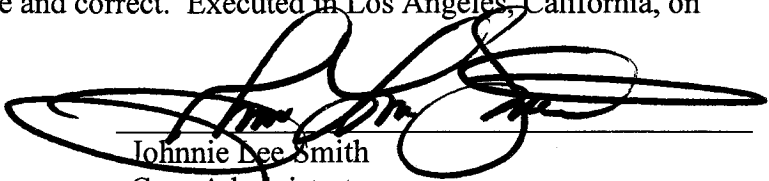
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**KENNETH EDWARD OSTROVE  
5650 SAINT CLAIR AVE  
NORTH HOLLYWOOD, CA 91607**

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

**HUGH RADIGAN, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 23, 2016.

  
\_\_\_\_\_  
Johnnie Dee Smith  
Case Administrator  
State Bar Court