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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **WILLIAM WEST SEEGMILLER,** **Member No. 98740,** A Member of the State Bar.	**Case No.: 15-O-11411-DFM** **AMENDED DECISION**

INTRODUCTION

Respondent **William West Seegmiller** (Respondent) is charged here with a single count of misconduct, to wit, an alleged failure to promptly pay a medical lien on behalf of his client in violation of rule 4-100(B)(4) of the Rules of Professional Conduct.[1] Prior to trial Respondent stipulated to culpability in the matter. Consequently, the only remaining disputed issues are those related to the appropriate level of discipline. The court's findings and recommendations regarding discipline are set forth below.

PERTINENT PROCEDURAL HISTORY

On December 15, 2015, the Notice of Disciplinary Charges (NDC) was filed in this matter by the State Bar of California, Office of the Chief Trial Counsel (State Bar).

On January 3, 2016, Respondent filed his Response to the NDC, denying that he had willfully violated rule 4-100(B)(4). He contended that his "failure to transmit the agreed upon

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

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$5,000 amount was a simple mistake, not intentional, and the funds were maintained in the Client Trust Account at all pertinent times."

An initial status conference was held on January 19, 2016. At that time, the case was given a trial date of April 5, 2016, with a two-day trial estimate.

On March 29, 2016, the parties filed a stipulation as to facts, culpability, and admission of various exhibits. As previously noted, the only remaining disputed issues to be decided by this court were the appropriate level of discipline and the facts related to that issue.

Trial was commenced and completed on April 5, 2016. The State Bar was represented at trial by Senior Trial Counsel Kimberly G. Anderson. Respondent was represented at trial by Ellen A. Pansky.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following findings of fact are based on Respondent's response to the NDC, the stipulation of undisputed facts and culpability (as modified by the parties at trial), and the documentary and testimonial evidence admitted at trial.

Jurisdiction

Respondent was admitted to the practice of law in California on August 21, 1981, and has been a member of the State Bar at all relevant times.

Case No. 15-O-11411

On March 16, 2011, Fred Hall (Hall) hired Respondent to handle a personal injury case filed by Hall. Between April 26, 2011, and February 2, 2012, prior to the settlement of the case, Respondent received and deposited into his client trust account (CTA) five checks, totaling $10,000, from Hall's own insurance company, AAA, for reimbursable medical payments (med-pay benefits). Prior to the payments of these benefits, AAA had advised Hall of its right to seek

reimbursement of these payments from any monies he received as a result of his personal injury case.

On February 15, 2012, Darlene Gasher (Gasher), a claims representative for AAA, sent a letter to Respondent, notifying him of Hall's obligation to reimburse AAA for the $10,000 within 30 days after receipt of funds from any settlement of Hall's personal injury claim.

On or about February 18, 2012, a $268,000 settlement agreement was reached in the personal injury case.

On February 27, 2012, Respondent replied to Gasher's letter, informing her that, although he had settled Hall's case for $268,000, Hall had incurred "medical specials" totaling $176,394.56. Respondent, therefore, asked that AAA completely waive any right to reimbursement of any portion of the $10,000 on the theory that Hall had not been made whole by the settlement.

On March 6, 2012, Gasher responded to Respondent's request, stating that AAA "will be unable to waive the medical reimbursement." However, AAA did offer to pay all costs incurred by Hall in the case ($825) and to reduce its medical lien to $5,000 in order to resolve the claim. (Exh. 12.) In her letter, Gasher asked that Respondent remit the $5,000 to AAA at its office in Los Angeles. In response, Respondent did not send the $5,000 to AAA.

On March 21, 2012, Gasher again wrote to Respondent, stating that she was advised that Hall's injury claim had been concluded and reiterating that AAA was requesting reimbursement of the med-pay payments it had previously made to Hall. In this letter, Gasher stated "the amount now subject to reimbursement is $10,000. (Exh. 13.)

On March 23, 2012, Respondent sent a letter to Hall, together with settlement distribution accounting. This accounting indicated that AAA was due $5,000. (Exh. 14.)

On June 5, 2012, Gasher sent another letter to Respondent, complaining that AAA's demands for reimbursement had not been answered and offering to mediate the matter if AAA's entitlement to $10,000 was disputed. (Exh. 15.)

On July 23, 2012, nearly four months after his earlier letter to AAA, Respondent sent a letter to Gasher, again requesting that AAA withdraw its request for any med-pay reimbursement because Hall had not been fully compensated by the settlement for his actual losses.

On the following day, July 24, 2012, Gasher rejected Respondent's demand for a complete waiver by AAA of its $10,000 lien. In a letter sent to Respondent, Gasher went on to complain that she had previously agreed to pay Hall's costs and reduce the reimbursement obligation to $5,000 and even had "confirmed with Adam in your office a few days ago[2] that payment would be sent, and he advised it was going out that day." Rather than receiving the anticipated $5,000, she had instead received Respondent's letter demanding a full release of the entire $10,000 amount. At the conclusion of her letter, Gasher stated:

> This case does not warrant a waiver and I have requested the file to refer out to our attorney's [sic]. If you wish to discuss this case please contact me by Wednesday. [¶] If this case is referred out my offer for the additional reduction will be void.

(Exh. 17.)

Respondent neither responded to this letter nor caused the $5,000 reimbursement to be sent to AAA. As a result, the matter was sent by AAA to its attorneys to seek reimbursement of the entire $10,000.

On August 22, 2012, attorney Kenneth Hagemann (Hagemann) sent a letter to Respondent, informing Respondent that he was representing AAA regarding the unpaid med-pay

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[2] Adam Jenner is a non-attorney who is employed at the Seegmiller Law Firm. Respondent testified that Adam was doing the bookkeeping in his office at all times pertinent to this matter.

reimbursement obligation of Fred Hall. Hagemann demanded reimbursement in the amount of $10,000, less a pro rata share of any reasonable attorney's fees and costs.

On August 31, 2012, Respondent replied to Hagemann's letter, again asserting that AAA was not entitled to any reimbursement of the med-pay benefits it had paid because Hall had not been made whole by the case settlement.

On November 8, 2012, Hagemann sent Respondent a another letter, requesting Respondent to provide evidence to support Respondent's "made whole claim." Respondent received the letter, but did not respond. Instead, he instructed his non-attorney employee, Adam Jenner, to issue a $5,000 check to AAA. Jenner, however, failed to issue the check, and Respondent failed to make sure that any check was sent to AAA.

On March 20, 2013, and again on October 8, 2013, Hagemann sent letters to Respondent, demanding reimbursement of the med-pay benefits. Both these letters were received in Respondent's office and should have alerted Respondent to the fact that the reimbursement issue had not been resolved with AAA. Respondent did not respond to either letter. During his testimony in the trial of this matter, Respondent stated that he had not seen these letters due to a "glitch" in his office's procedures, which was in the process of being converted to a "paperless" office.

On January 24, 2014, Hagemann sent yet another letter to Respondent, again demanding reimbursement of the med-pay benefits. In that letter, Hagemann stated that this offer was his final attempt to resolve the matter without the need for litigation. He also indicated that he would assume that Respondent was no longer representing Hall if he did not hear back from Respondent. The letter was received in Respondent's office but was not responded to by

Respondent. At trial, Respondent attributed his lack of attention to this letter to his not being provided the letter as a result of deficient office procedures.

Not having heard from Respondent, on March 12, April 4, and May 9, 2014, Hagemann sent letters directly to Hall, demanding reimbursement of the $10,000 and threatening to sue Hall if the $10,000 of med-pay benefits were not re-paid. The May 9th letter actually enclosed a draft complaint and notified Hall that Hagemann would be filing the complaint if he did not hear from Hall within 15 days.

On September 29, 2014, AAA sued Hall in the Los Angeles County Superior Court. After Hall was served with the lawsuit, he spoke personally with Respondent about having been served with the lawsuit. During that conversation, Respondent assured Hall that he would take care of the lawsuit. Respondent, however, then took no steps to do so.

On December 19, 2014, the court entered Hall's default in the collection case. After Hall received the default papers, he filed a State Bar complaint against Respondent. Consequently, on January 26, 2015, the State Bar opened an investigation into the matter.

On February 19, 2015, judgment was entered by the Los Angeles County Superior Court in favor of AAA and against Hall in the amount of $12,849.93.

On March 10, 2015, a State Bar investigator sent Respondent a letter, advising him of Hall's complaint and requesting a written response. After becoming aware of Hall's complaint to the State Bar, Respondent, on March 24, 2015, arranged for the judgment against Hall to be set aside and the collection case against Hall to be dismissed. In return, Respondent agreed to pay, and did pay, the negotiated amount of $10,000 to resolve the matter.

Count One – Rule 4-100(B)(4) [Failure to Promptly Pay Entrusted Funds]

Rule 4-100(B)(4) requires an attorney to promptly pay or deliver, as requested by the client, any funds, securities, or other properties in the attorney's possession which the client is entitled to receive. The rule applies not only to the attorney's obligation to clients, but also to the attorney's obligation to pay third parties out of funds held in trust, including the obligation to pay holders of medical liens. (*In the Matter of Respondent P* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 633; *In the Matter of Dyson* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280, 286; *In the Matter of Mapps* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1, 10.)

Respondent received the proceeds of the Hall settlement in early 2012 but did not pay any funds to resolve the AAA reimbursement claim until March 2015, more than three years later, despite numerous intervening demands by AAA for payment. As a result of this delay, Hall was sued by AAA in superior court and had a judgment entered against him.

Prior to the commencement of the trial in this matter, the parties stipulated, and this court now finds, that Respondent's prolonged failure to pay the AAA reimbursement lien represented a violation by Respondent of rule 4-100(B)(4).

Aggravating Circumstances

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, Stds. for Atty. Sanctions for Prof. Misconduct,[3] std. 1.5.) The court finds the following with respect to aggravating circumstances.

Prior Record of Discipline

Respondent's has two prior records of discipline. This is an aggravating factor. (Std. 1.5(a).)

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[3] All further references to standard(s) or std. are to this source.

In his first disciplinary matter, effective November 30, 2004, Respondent stipulated to a public reproval for conduct occurring during the period 1996-1998. That discipline was a result of two separate cases. In case No. 99-O-13410, he admitted to violating Business and Professions Code section 6068, subdivision (a), by permitting chiropractors to contribute to the payment of his legal advertising costs. In case No. 04-O-11768, Respondent admitted to violating rule 3-310(C)(1) by accepting representation of more than one client in a matter in which the interests of the clients conflicted without the informed written consent of each client. As one of the conditions of his reproval, Respondent was ordered to attend the State Bar's Ethics School.

In his second disciplinary matter, effective January 22, 2009, Respondent received a public reproval with conditions in case No. 06-J-11086, based upon his misconduct in Nevada. Respondent was found culpable of permitting a non-attorney to engage in the unauthorized practice of law as a result of Respondent's lack of supervision. The court found that Respondent's misconduct would have constituted violations of rule 1-300(A) and rule 3-110(A) of the California Rules of Professional Conduct. In aggravation, Respondent had a prior record of discipline. Respondent was accorded mitigating credit for: (1) acting in good faith during the course of his misconduct; (2) extensive character evidence, charitable and pro bono activities; and (3) remorse/remediation evidenced by having taken measures to modify his office procedure to eliminate the cause of the misconduct.

Respondent argues that the weight to be given his two prior records of discipline as an aggravating factor should be limited or non-existent because these priors are "remote" and had nothing to do with client funds. That contention lacks merit. The effective date of Respondent's second discipline was in January, 2009, approximately three years before his misconduct began

in the instant matter. Hence, the discipline was not remote to the misconduct here based solely on the passage of time. Nor is the nature of the misconduct in the two matters unrelated. In the second prior discipline, Respondent's misconduct resulted from his failure to supervise his staff. Here, as noted above, he again attributes much of his misconduct to mistakes being made by his office staff, who were clearly not being adequately supervised by him.

Respondent's two prior disciplines, including the requirement on two separate occasions that he attend the State Bar's Ethics School, should have caused him to be vigilant in supervising his staff. The fact that they did not makes this history of prior disciplines an aggravating factor under standard 1.5(a).

Mitigating Circumstances

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

Cooperation

Respondent entered into an extensive stipulation of facts and admitted his culpability regarding the trust account violation with which he was charged. Such cooperation is a mitigating factor. (Std. 1.6(e); see also *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443; *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [where appropriate, more extensive weight in mitigation is accorded those who admit to culpability as well as facts].)

The court declines to afford Respondent additional mitigation credit for his eventual actions in having the default judgment against Hall set aside. Those actions were neither prompt nor spontaneous, as contemplated by standard 1.6(e) and (g). To the contrary, the default judgment actually resulted from Respondent's failure to respond promptly to the collection

action filed against Hall, notwithstanding Respondent's prior assurance to Hall that he would take care of the matter. When Respondent finally did act to resolve AAA's reimbursement claim and the resulting collection civil action against his former client, it was months later and only after he became aware of Hall's complaint against him to the State Bar. Such belated measures are not entitled to mitigation credit. (See, e.g., *In the Matter of Petilla* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231, 249, citing *Warner v. State Bar* (1983) 34 Cal.3d 36, 47; *In the Matter of Ike* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483, 490; *In the Matter of Riley* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91, 116-117; *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 619; *In the Matter of Rodriguez* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480, 496; *In the Matter of Robins* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708, 714; and *In the Matter of Tindall* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652, 663, citing *Rosenthal v. State Bar* (1987) 43 Cal.3d 658, 663.)

Good Character

Respondent submitted character letters from ten individuals, including two attorneys and two former clients. All of the individuals expressed their belief that Respondent was honest, reliable, committed to serving his clients, and generous.

However, all of these letters were written before the current charges were filed against Respondent, and none of these individuals indicated having any knowledge regarding the misconduct in this matter as required by standard 1.6(f).[4] As a result, the court assigns only minimal weight to this character evidence.. (*In the Matter of Song* (Review Dept. 2013) 5 Cal.

[4] Providing strong evidence that these character witnesses were actually unaware of the current misconduct is the statement in one of the character letters that "He [Respondent] pointed out when he asked me to write this letter that several years ago there were bar complaints about him not managing his office staff correctly but my opinion of him is the same." (Ex. 1001, p. 9 [emphasis added].)

State Bar Ct. Rptr. 273, 280; *In re Aquino* (1989) 49 Cal.3d 1122, 1130-1131 [limited weight assigned to attorney's good character evidence where there is a failure to establish witnesses knew the full extent of the attorney's misconduct.]).

Community Service, Pro Bono and Charitable Work

Respondent provided significant evidence of his extensive community service, charitable efforts, and pro bono work. This is a mitigating factor. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 665; *In the Matter of Song, supra*, 5 Cal. State Bar Ct. Rptr. 273, 280; *Calvert v. State Bar* (1991) 54 Cal.3d 765,785;)

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession, and maintain the highest possible professional standards for attorneys. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Although the standards are not binding, they are to be afforded great weight because "they promote the consistent and uniform application of disciplinary measures." (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Nevertheless, the court is not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, the court is permitted to temper the letter of the law with considerations peculiar to the offense and the offender. (*In the Matter of Van Sickle* (2006) 4 Cal. State Bar Ct. Rptr. 980, 994; *Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) In addition, the court considers relevant decisional law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State

Bar Ct. Rptr. 676, 703.) Ultimately, in determining the appropriate level of discipline, each case must be decided on its own facts after a balanced consideration of all relevant factors. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1059; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 940.)

In this case, the applicable standard is standard 2.2(a), which provides that an actual suspension of three months is the presumed sanction for Respondent's violation.[5] Based on that standard and citing to *In the Matter of Koehler*, *supra*, 1 Cal. State Bar Ct. Rptr. 615, 628, the State Bar requests that Respondent be actually suspended from the practice of law for 90 days. Respondent, on the other hand, argues for a stayed suspension with no actual suspension and cites to *In the Matter of Klein* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1 as precedent supporting such an outcome. The parties acknowledge that neither case is directly on point.

Turning to the applicable case law, this court finds some guidance in *In the Matter of Riley*, *supra*, 3 Cal. State Bar Ct. Rptr. 91. In *Riley*, the attorney was found culpable of numerous failures to pay medical liens. As aggravating factors, the Review Department of this court found harm to some of the clients (several of whom had been sued by the lienholders) and multiple acts of misconduct. In mitigation, the court noted the absence of any prior record in nine years of practice by the respondent prior to the commencement of the misconduct, evidence that respondent had remedial changes in his office procedures, and the fact that there was no evidence of any new acts of misconduct for a number of years since 1990. Nonetheless, the Review Department determined that there was not a sufficient basis to deviate from the

[5] The parties agreed that Std. 1.8(b) does not require disbarment in the instant matter, since Respondent's prior disciplinary matters do not involve the imposition of a period of actual suspension; the prior disciplinary matters coupled with the current record do not involve the same violations; and, the prior disciplinary matters coupled with the current matter do not demonstrate Respondent's unwillingness or an inability to conform his conduct to his ethical obligations.

minimum discipline of 90-days actual suspension then called for by the standards, and it increased the discipline previously recommended by the Hearing Department to include those 90 days of actual suspension.

This court recognizes that the language of standard 2.2(a) has been modified since the above decisions to make clear that the 90-day period of actual suspension is the "presumed" discipline for a failure to promptly pay out entrusted funds, as opposed to the prior ostensible mandatory minimum discipline to be imposed for any such violation. That amendment, however, does not negate either the approach followed by the Review Department in *Riley* or that discussed more generally above. In sum, ninety days of actual suspension is the presumed discipline to recommend as a result of Respondent's misconduct unless there is ample reason to depart from that presumption. Here, the court finds that there is not.

The misconduct in the present matter involves many of the same issues and factors that were before the Review Department in the *Riley* matter. While Respondent seeks to blame his failure to pay out the entrusted funds to his ignorance of the problem, which purported ignorance resulted from errant office personnel and defective office procedures, those excuses do not explain his failure to act promptly to pay the existing lienholder after being personally advised by Hall of the collection action in late 2014. Although Respondent assured Hall at that time that he would then take care of the reimbursement claim and the resulting collection case, there is no evidence that Respondent made any effort to do so until March 2015. The result of Respondent's ongoing indifference was the entry of a $12,849.93 judgment against Hall in the intervening period. While Respondent's delay in paying out the entrusted funds to AAA continued for more than three years, just Respondent's delay in paying out the funds from late 2014 to March 2015 would warrant a finding of a violation by him of rule 4-100(B)(4). Worse,

although Respondent was aware that his former client was being sued as a result of his failure to satisfy the reimbursement claim, he did not act to comply with his ethical obligation under rule 4-100 until he became aware of the pending State Bar disciplinary investigation. No explanation has been offered by Respondent for that delay.

Moreover, Respondent's misconduct until late 2014 cannot be said to have resulted solely from errant office personnel and defective paperless office procedures in 2012 and 2013. If Respondent was not aware that the disputed $10,000 had not been paid out to AAA but instead remained in his client trust account at all times after November 2012, such ignorance reveals an apparent serious and ongoing lack of oversight and management by Respondent of his client trust account. Pursuant to the Rules of Professional Conduct, Respondent was required to maintain records for that trust account, including a "written ledger" for each client having funds in the account. The ledger for each such individual client is required to show the current balance of the funds still in the account and the source of such funds. (Rule 4-100(C); Trust Account Record Keeping Standards, paragraph (1)(a).) Compliance with this obligation required Respondent to have an individual ledger for Hall at all times from at least February 2012 until March 2015, showing the $10,000 of med-pay benefits received by Respondent from AAA and still on deposit in the account. In addition, Respondent was obligated to prepare and maintain a monthly written reconciliation, "balancing" each and every month the aggregate total of all of the individual client ledgers with the total amount of funds then held in the client trust account, as show by the bank statement each month for the account. (Rule 4-100(C); Trust Account Record Keeping Standards, paragraph (1)(d).) Any such reconciliation and balancing, if performed and/or reviewed by Respondent as he was required to do, should have revealed to Respondent - at the conclusion of each month between November 2012 and February 2015 - that no portion of the

disputed $10,000 had not been disbursed and that all of the funds instead remained deposited in Respondent's CTA. Respondent has offered no explanation as to why it did not.

Respondent has been previously disciplined on two separate occasions. While the presumptive discipline of disbarment, set forth in standard 1.8(b), does not apply in this case, that conclusion is true only because the discipline imposed in both of those prior matters did not include any period of actual suspension. However, a review of the 2009 discipline decision reveals that the mitigating factors reducing the recommended level of discipline in that case are virtually the same factors that Respondent is advancing here to again seek a lesser discipline, namely extensive character evidence, charitable and pro bono activities; and remorse/remediation evidenced by having taken measures to modify his office procedures. Similar mitigating factors were also offered by Respondent and included in the 2004 discipline recommendation.

An attorney's good character, remedial measures taken to correct deficient office procedures, and community/pro bono/charitable activities do not give rise to dispensations. Instead, they are potential mitigating factors because they are indicators that a lesser level of discipline may be sufficient to avoid any future ethical violations by that attorney. However, where those factors have proved to not be a good indicator of the lack of risk of future misconduct by a particular member, the need to increase the level of discipline as a consequence of future misconduct - to seek to adequately motivate the recidivist attorney to comply with the standards governing the profession - becomes apparent and compelling. That is especially true where the attorney, like Respondent here, has also been twice required to complete the State Bar's Ethics School.

While this court certainly does not conclude that Respondent's disbarment is now required to protect the public and the profession in the future, it does conclude that there is no reason here to deviate from the presumptive discipline set forth in standard 2.2(a). Therefore, this court recommends, among other things, that Respondent be suspended from the practice of law for one year; that execution of that period of suspension be stayed; and that he be placed on probation for two years, including a 90-day period of actual suspension.

RECOMMENDED DISCIPLINE

Stayed Suspension/Probation/Actual Suspension

For all of the above reasons, it is recommended that **William West Seegmiller,** State Bar No. 98740, be suspended from the practice of law for one year; that execution of that suspension be stayed; and that Respondent be placed on probation for two years, subject to the following conditions:

1. Respondent must be actually suspended from the practice of law for the first ninety (90) days of probation.
2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.
3. 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.

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 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.

5. He must submit written quarterly reports to the Office of Probation on or before 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.

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

7. 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 and Client Trust Accounting Schools and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he shall not receive MCLE credit for attending those schools. (Rules Proc. of State Bar, rule 3201.)

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 Respondent has complied with all conditions of probation, the stayed suspension will be satisfied and that suspension will be terminated.

California Rules of Court, Rule 9.20

The court recommends that Respondent be ordered to comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in this matter.[6]

MPRE

It is further recommended that Respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of the Supreme Court order imposing discipline in this matter and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within that same period. (See *Segretti v. State Bar*

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

(1976) 15 Cal.3d 878, 891, fn. 8.) Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs

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

Dated: August 25, 2016

DONALD F. MILES
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 26, 2016, I deposited a true copy of the following document(s):

AMENDED 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:

ELLEN ANNE PANSKY
PANSKY MARKLE HAM LLP
1010 SYCAMORE AVE UNIT 308
SOUTH PASADENA, CA 91030

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

KIMBERLY ANDERSON, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 26, 2016.

Rose M. Luthi

Rose M. Luthi
Case Administrator
State Bar Court