STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

| | |
|---|---|
| In the Matter of<br><br>**MARC A. GARCIA,**<br><br>**Member No. 179822,**<br><br>A Member of the State Bar. | Case No.: 15-O-12486-LMA<br><br>**DECISION** |

## Introduction[1]

In this contested disciplinary proceeding, respondent **Marc A. Garcia** (Respondent) is charged with seven counts of misconduct, consisting of six counts of moral turpitude and one count of failing to comply with all laws. The alleged misconduct stemmed from Respondent's repeated failures to disclose financial interests while acting as a Merced County Superior Court Judge between 2007 and 2013.

This court finds, by clear and convincing evidence, that Respondent is culpable of the alleged misconduct. Based on the nature and extent of culpability, as well as the mitigating and aggravating factors, it is recommended that Respondent, among other things, be actually suspended from the practice of law for a minimum of two years and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law.

[1] Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

## Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a Notice of Disciplinary Charges (NDC) against Respondent on December 29, 2015. Respondent filed his response to the NDC on January 19, 2016.

The State Bar was represented by Senior Trial Counsel Robin Brune. Jerome Fishkin represented Respondent. Trial dates were held on April 26-29 and June 1, 2016. Following the filing of closing briefs, this matter was submitted for decision on June 16, 2016.

## Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on December 4, 1995. On November 30, 2007, Respondent's membership records status changed to reflect the fact that he became a judge.[2] On May 15, 2015, Respondent returned to active membership with the State Bar of California.

**Case No. 15-O-12486 – The Commission on Judicial Performance Matter**

**Facts**

In 1999, Respondent was hired as an associate by the Merced County law firm of Morse and Pfeiff. Thomas Pfeiff (Pfeiff) was a partner in the firm.

In 2001, Respondent became a partner and the firm name was changed to Morse, Pfeiff, & Garcia. At that time, Merced County had separate contracts with different attorneys to provide indigent defense services when the Merced Public Defender declared a conflict. Respondent and Pfeiff both were attorneys with those individual contracts with Merced County.

[2] Article VI, section 9 of the California Constitution states, in part, "Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record."

In January 2003, a request for proposal was issued by Merced County for a contract to provide alternate indigent defense services for a flat fee. The law firm of Morse, Pfeiff, & Garcia submitted a proposal and was awarded the indigent defense services contract.

Shortly before January 2004, the firm of Morse, Pfeiff, & Garcia dissolved and Respondent opened his own law office called the Garcia Law Firm. On January 1, 2004, concurrent with the dissolution of the Morse, Pfeiff, & Garcia firm, the Garcia Law Firm and the Law Offices of Morse and Pfeiff entered into a joint venture agreement, eventually named the Merced Defense Associates (MDA).

MDA was limited to the indigent defense contract. Approximately 95% of criminal defendants in Merced County are indigent, and MDA represented approximately 20% of those criminally indigent defendants.

In early October 2007, Respondent's judicial appointment was announced. On November 29, 2007, a one-paragraph agreement dissolving the MDA joint venture was signed by Respondent and Pfeiff (Agreement One). Agreement One stated that for "due consideration" MDA was now the sole property of Morse and Pfeiff.

Also on November 29, 2007, a separate one-page agreement was executed by Respondent and Pfeiff (Agreement Two).[3] Agreement Two provided that MDA would pay Respondent $250,000 as part of the dissolution. Beginning in January 2008, MDA would make monthly payments to Respondent in the amount of $4,516. Agreement Two also provided that the

[3] The fact that Respondent and Pfeiff split the dissolution agreement into two separate documents was significant. On June 3, 2008, Pfeiff sent a letter to Angelo Lamas (Lamas) of the Merced County Executive Office in response to Lamas's request for confirmation that Respondent no longer had an interest in MDA. In this letter, Pfeiff stated, "You recently requested confirmation that [Respondent] no longer has an interest in MDA. I have enclosed herewith a copy of our agreement terminating [Respondent's] interest." Pfeiff's letter, however, was clearly misleading, as it only included a copy of Agreement One. (See Exh. 15.)

monthly payments would no longer be required if the contract between the County of Merced and MDA to provide indigent defense services was terminated or not renewed.

Agreement Two also provided that the funds would be deposited into a blind trust account established by Respondent. Respondent requested the blind trust provision in the dissolution agreement because he mistakenly believed that it would avoid disqualification issues in which Morse and Pfeiff appeared.[4] Respondent quickly realized that was wrong and instructed Pfeiff to give Respondent checks directly.

On November 30, 2007, Respondent was sworn in as a Merced County Superior Court Judge. Initially, Respondent was assigned to a civil department.

In January 2008, Respondent began receiving monthly checks in the amount of $4,516 pursuant to the dissolution agreement. The checks were made payable to Respondent and were drawn from the account of "Law Offices of Morse and Pfeiff." The monthly checks were delivered by a Morse and Pfeiff court runner. The checks arrived at the courthouse in sealed envelopes with Respondent's name on them. There was no address and no stamp on the envelope, and the envelopes were not marked "personal and confidential." These monthly checks continued through August 2012, until Respondent had been paid a total of $250,000.

In 2009, Respondent was assigned to a criminal department. MDA attorneys, including Pfeiff, appeared regularly in Respondent's courtroom. Pfeiff appeared at least monthly in Respondent's courtroom.

Respondent never disclosed to anyone that he was receiving these monthly checks from Morse and Pfeiff. Respondent never disqualified himself in any matters where Pfeiff appeared before him and failed to disclose the ongoing financial relationship he had with Pfeiff and MDA.

[4] Respondent's testimony that the blind trust was Pfeiff's idea was not credible, as it was inconsistent with the credible testimony and documentary evidence before the court.

As laid out in more detail below, Respondent's Statements of Economic Interests (commonly referred to as FPPC Form 700) for the years 2008 through 2012, executed under penalty of perjury, did not disclose any of the $250,000 in income he received from Morse and Pfeiff pursuant to the terms of the dissolution agreement.[5]

In January and June 2008, Respondent attended New Judge Orientation and Judicial College, respectively. At both of these training seminars, judicial ethics are at least cursorily taught. At these seminars, Respondent did not make any diligent efforts of researching this issue further, and mistakenly formed the belief that he did not have to disclose the monthly payments received from Pfeiff or disqualify himself if Pfeiff ever appeared before him.

In February 2009, Respondent stated in writing, under penalty of perjury, that he had provided true and complete information on his FPPC Form 700 for the reporting period of January 1 to December 31, 2008. Respondent, however, did not report the $4,516 monthly payments he received from Morse and Pfeiff.[6]

On January 5, 2010, Respondent stated in writing, under penalty of perjury, that he had provided true and complete information on his FPPC Form 700 for the reporting period of January 1 to December 31, 2009. Respondent, however, did not report the $4,516 monthly payments he received from Morse and Pfeiff.

On February 3, 2010, Respondent amended his January 5, 2010 FPPC Form 700 to include tickets to a sporting event that were gifted to him. In his amended form, Respondent stated in writing, under penalty of perjury, that he had provided true and complete information

[5] Although he reported this income to the IRS as "MDA Contract Right" or "Morse and Pfeiff Installment Interest," Respondent's IRS forms are not disclosed to the public.

[6] Respondent filed his first FPPC Form 700 on November 30, 2007. This form was accurate, as Morse and Pfeiff had yet to make any payments and there was nothing to disclose.

on his FPPC Form 700 for the reporting period of January 1 to December 31, 2009. Respondent, however, still did not report the $4,516 monthly payments he received from Morse and Pfeiff.

On February 25, 2011, Respondent stated in writing, under penalty of perjury, that he had provided true and complete information on his FPPC Form 700 for the reporting period of January 1 to December 31, 2010. Respondent, however, did not report the $4,516 monthly payments he received from Morse and Pfeiff.

In August 2011, during the normal course of processing all judicial mail, a judicial secretary opened an envelope that contained a $4,516 check to Respondent from Morse and Pfeiff. Respondent became upset and instructed the secretary not to open any of his mail in the future.

Shortly after the mail incident, Judge Proietti talked to Respondent in an attempt to provide some assistance. Judge Proietti and Respondent also discussed the issue of disqualification and financial entanglements with former law firms.[7] Judge Proietti told Respondent that he believed there was a conflict requiring disqualification until two years after the conclusion of all law firm dissolution provisions. Judge Proietti explained that he had a law firm dissolution agreement and would continue to recuse himself from every case involving his former firm until two years following the financial entanglement. Respondent disagreed with Judge Proietti, stating instead that the two years ran from the dissolution of the partnership. Respondent did not reveal to Judge Proietti that he, too, was receiving payments from a law firm dissolution agreement.

[7] The court found Judge Proietti's testimony to be highly credible. In contrast, Respondent's testimony that their conversation did not occur lacked credibility.

At a minimum, this conversation with Judge Proietti should have prompted Respondent to further research this issue.[8] Instead, Respondent took no action.

On February 15, 2012, Respondent stated in writing, under penalty of perjury, that he had provided true and complete information on his FPPC Form 700 for the reporting period of January 1 to December 31, 2011. Respondent, however, did not report the $4,516 monthly payments he received from Morse and Pfeiff.

On January 9, 2013, Respondent stated in writing, under penalty of perjury, that he had provided true and complete information on his FPPC Form 700 for the reporting period of January 1 to December 31, 2012. Respondent, however, did not report the $4,516 monthly payments he received from Morse and Pfeiff.

In February 2014, the Commission on Judicial Performance (CJP) advised Respondent that they were investigating the matter. In March 2014, Responded filed amended Statements of Economic Interests for the years 2008 through 2012 and reported the income as "Sale of Interest in joint venture agreement in MDA."

On April 6, 2015, Respondent entered into a stipulation for discipline with the CJP. In the stipulation, Respondent consented to public censure and agreed to resign from judicial office. Effective May 15, 2015, Respondent resigned from the Merced County Superior Court. On that date, he resumed his membership in the State Bar of California.

**Conclusions**

***Count One – Section 6068, subd. (a) [Duty to Support All Laws]***

Section 6068, subdivision (a), provides that an attorney has a duty to support the Constitution and laws of the United States and California. Government Code sections 87200, et

[8] Judge Proietti testified that the conversation caused him to check his judicial conduct book to verify that he properly understood the rule.

seq., require that California judges file annual statements disclosing his or her investments, interests in real property, and income during the applicable reporting period. Between 2009 and 2013, Respondent willfully failed to disclose the income he received from Morse & Pfeiff on six Statement of Economic Interests forms in violation of Government Code sections 87200, et seq., and thereby willfully violated section 6068, subdivision (a).

***Count Two – Section 6106 [Moral Turpitude – Misrepresentation]***

Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment. In Count Two, the State Bar alleged that Respondent committed moral turpitude by stating on or about February 5, 2009, in writing under penalty of perjury to the Merced County Superior Court that, for the reporting period of January 1 – December 31, 2008, he had provided true and complete information on his Statement of Economic Interests form when Respondent knew or was grossly negligent in not knowing that statement was false. The court agrees.

The evidence before the court demonstrates that Respondent was, at a minimum, grossly negligent in not knowing his statement was false. He never discussed the payments with anyone and never took the time to look at the statutes. Even the monthly reminders from Morse and Pfeiff – in the amount of $4,516 – did not prompt him to examine this issue deeper. Respondent made an illogical and unreasonable assumption and stuck with it.

As alluded to above, the court does not find credible Respondent's argument that he was operating under a good faith mistaken belief that he did not need to disclose the income he received from Morse and Pfeiff. Even a cursory review of the statutes, forms, and ethics publications would have notified Respondent that his assumption was wrong.

In addition, Respondent's overall lack of transparency surrounding the situation derails his good faith argument. Respondent received the money in sealed envelopes delivered to the

court with only Respondent's name on them. Respondent strictly forbade anyone else from opening his mail. And despite frequent appearances before him, Respondent never disclosed in open court that he was receiving payments from Pfeiff and MDA.

***Count Three – Section 6106 [Moral Turpitude – Misrepresentation]***

By stating on or about January 5, 2010, in writing under penalty of perjury to the Merced County Superior Court that, for the reporting period of January 1 – December 31, 2009, he had provided true and complete information on his Statement of Economic Interests form when he was grossly negligent in not knowing that statement was false, Respondent committed an act involving moral turpitude, in willful violation of section 6106.

***Count Four – Section 6106 [Moral Turpitude – Misrepresentation]***

By stating on or about February 3, 2010, in writing under penalty of perjury to the Merced County Superior Court that, for the reporting period of January 1 – December 31, 2009, he had provided true and complete information on his Statement of Economic Interests form when he was grossly negligent in not knowing that statement was false, Respondent committed an act involving moral turpitude, in willful violation of section 6106.

***Count Five – Section 6106 [Moral Turpitude – Misrepresentation]***

By stating on or about February 25, 2011, in writing under penalty of perjury to the Merced County Superior Court that, for the reporting period of January 1 – December 31, 2010, he had provided true and complete information on his Statement of Economic Interests form when he was grossly negligent in not knowing that statement was false, Respondent committed an act involving moral turpitude, in willful violation of section 6106.

***Count Six – Section 6106 [Moral Turpitude – Misrepresentation]***

By stating on or about February 15, 2012, in writing under penalty of perjury to the Merced County Superior Court that, for the reporting period of January 1 – December 31, 2011,

he had provided true and complete information on his Statement of Economic Interests form when he was grossly negligent in not knowing that statement was false, Respondent committed an act involving moral turpitude, in willful violation of section 6106.[9]

***Count Seven – Section 6106 [Moral Turpitude – Misrepresentation]***

By stating on or about January 9, 2013, in writing under penalty of perjury to the Merced County Superior Court that, for the reporting period of January 1 – December 31, 2012, he had provided true and complete information on his Statement of Economic Interests form when he was grossly negligent in not knowing that statement was false, Respondent committed an act involving moral turpitude, in willful violation of section 6106.

**Aggravation**[10]

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

Respondent's multiple acts of misconduct constitute an aggravating factor.

**Harm to the Administration of Justice (Std. 1.5(j).)**

Respondent's misconduct resulted in significant harm to the administration of justice. Respondent stipulated that his "conduct was, at a minimum, conduct prejudicial to the administration of justice that brings the judicial office into disrepute pursuant to article VI, section 18(d)(2) of the California Constitution." (Exh. 1, p. 9.) The court agrees and acknowledges the inherent harm to the public confidence in the judicial system which results when conduct such as this comes to light. The present case is particularly egregious in that it went on for so many years. Accordingly, the harm Respondent caused to the administration of justice warrants significant weight in aggravation.

---

[9] While Respondent already should have been aware of the fact that he needed to disclose Morse and Pfeiff's payments in his FPPC Form 700, his August 2011 conversation with Judge Proietti was yet another reminder to which Respondent turned a blind eye.

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

**Mitigation**

**No Prior Record of Discipline (Std. 1.6(a).)**

Respondent was admitted to practice law in California in 1995, and has no prior record of discipline. His approximately thirteen years of discipline-free conduct prior to the present misconduct warrants significant consideration in mitigation. (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [more than ten years of discipline-free practice entitled to significant weight].)

**Good Character Evidence (Std. 1.6(f).)**

Respondent provided character evidence from ten witnesses.[11] Respondent's ten character witnesses included, among others, a judge, a county supervisor, and a college president. Respondent's character witnesses attested to his honesty and good character. Some of Respondent's character witnesses also testified regarding the extensive community and pro bono work Respondent has performed over the years. These witnesses came from a wide-range of backgrounds and demonstrated an understanding of Respondent's misconduct. Respondent's good character evidence warrants significant consideration in mitigation.

**Remorse and Recognition of Wrongdoing (Std. 1.6(g).)**

Respondent has demonstrated remorse and recognition of the wrongdoing. Upon his resignation, Respondent issued a letter to the community for publication in the newspaper. (Exh. G.) In this letter, Respondent acknowledged the mistakes that led to his resignation and accepted full responsibility for his actions. While it can be argued that Respondent's letter did not fulfill the requirement that the remorse be "spontaneous," the court concludes that Respondent's actions warrant some limited consideration in mitigation.

[11] Four of these witnesses testified and the remaining six presented declarations. The Honorable Brian McCabe testified and presented a declaration.

**Extreme Emotional Difficulties (Std. 1.6(d).)**

In 2008 and 2009, Respondent faced considerable turmoil in his personal life. In June 2008, Respondent's father passed away. And in April 2009, Respondent's brother-in-law was arrested for molesting Respondent's niece in Respondent's home. While the court acknowledges these difficult events, they do not warrant consideration in mitigation because they did not occur at the same time as much of the misconduct and it has not been established by expert testimony that they were directly responsible for the misconduct.

## Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025.)

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). Second, the court looks to decisional law. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

Standard 1.1 provides that the primary purposes of disciplinary proceedings are the protection of the public, the courts, and the legal profession; the maintenance of high professional standards; and the preservation of public confidence in the legal profession. This standard also provides that rehabilitation can "be an objective in determining the appropriate sanction in a particular case, so long as it is consistent with the primary purposes of discipline."

Standard 1.7 provides that if aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors.

In this case, the standards call for the imposition of a sanction ranging from actual suspension to disbarment. (Standards 2.11 and 2.12(a).) The most severe sanction is found at standard 2.11 which provides that disbarment or actual suspension is the presumed sanction for an act of moral turpitude. Standard 2.11 further states that the degree of sanction depends on the magnitude of the misconduct, the extent to which the misconduct harmed or misled the victim, the impact on the administration of justice, and the extent to which the misconduct related to the member's practice of law.

The standards, however, "do not mandate a specific discipline." (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.) It has long been held that the court is "not bound to follow the standards in a talismanic fashion. As the final and independent arbiter of attorney discipline, [the Supreme Court is] permitted to temper the letter of the law with considerations peculiar to the offense and the offender." (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) Yet, while the standards are not binding, they are entitled to great weight. (*In re Silverton* (2005) 36 Cal.4th 81, 92.)

The State Bar urges, among other things, that Respondent be suspended from the practice of law for a minimum of two years. Respondent, on the other hand, asserts that this case should be dismissed or result in less than a public reproval. In determining the appropriate level of discipline, the court also looks to the case law for guidance.

As acknowledged by the State Bar, the present case is fairly unique and there is not much case law directly on point. Accordingly, the court's focus turns to analogous situations. To begin with, the court finds some guidance in *In re Scott* (1991) 52 Cal.3d 968.

In *Scott*, a municipal court judge resigned from his judicial post after pleading guilty to possession of cocaine. In addition to his conviction, it was discovered that the former judge had presided over an arraignment and reduced the bail of a defendant who had previously sold him

illegal drugs.[12] The Supreme Court found that the former judge's misconduct constituted moral turpitude. In mitigation, numerous witnesses testified regarding his good character; he had no prior record of discipline; he was candid and expressed remorse; and he was undertaking substantial efforts to reform his life, including regularly attending church and Alcoholics Anonymous meetings. Finding that he significantly damaged the public trust in the legal profession and the judiciary, the Supreme Court ordered that the former judge be disbarred.

While the dynamics in the present case are different, the court sees some similarities. Like the former judge in *Scott*, Respondent argues that he never showed any favoritism toward MDA or Pfeiff.[13] Similar to *Scott*, Respondent is missing the point. The judiciary must error on the side of transparency and take into consideration when their impartiality might reasonably be questioned.

And although it did not involve a criminal conviction, the present case was comprised of multiple acts of serious misconduct, occurring over many years. By Respondent's own estimation, MDA attorneys constituted 20% of his felony criminal calendar. Between MDA attorneys' frequent appearances in his courtroom and the $4,516 checks arriving monthly in unmarked envelopes, Respondent had ample reminders to examine the legitimacy of his actions. What is more, Respondent had research tools at his disposal, as well as supporting attorneys and judicial peers to consult with. Instead, Respondent ignored the clear signs of impropriety and put his head in the sand.

---

[12] Noting that the Code of Judicial Conduct states that judges should disqualify themselves when required by law or when their impartiality might reasonably be questioned, the Supreme Court was not "heartened" by the former judge's insistence that his bail reduction was objectively warranted. (*In re Scott*, *supra*, 52 Cal.3d 968, 979.)

[13] It cannot be determined whether Respondent's financial relationship with MDA had any bearing – either conscious or subconscious – on his actions. That said, no blatant acts of favoritism were alleged or proven by clear and convincing evidence.

In support of his recommended discipline, Respondent cites *Doan v. Commission on Judicial Performance* (1995) 11 Cal.4th 294. In *Doan*, the Supreme Court ordered a judge with two prior judicial disciplines removed from office for misconduct involving moral turpitude, dishonesty, and corruption. Respondent's argument is not based on the Supreme Court's analysis in *Doan*, but rather on the fact that the CJP issued a public reproval on Judge Doan's prior discipline involving her failure to disclose payments on her Statement of Economic Interests forms. The court rejects Respondent's reliance on *Doan* for the following reasons.

First, Judge Doan's prior discipline was referenced as a factor in aggravation and did not create a disciplinary precedent. Second, the limited facts presented regarding Judge Doan's prior discipline include no indication that the parties providing payments to Judge Doan appeared in her courtroom. And third, attorney disciplinary proceedings are clearly different than proceedings involving the CJP. The State Bar Court is not limited by the discipline imposed by the CJP. And if such were the case, the proper resolution of the present matter would be a public censor with a requirement that Respondent resign from the State Bar.

Respondent also relies on *In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330, in support of his assertion that a public reproval is warranted. The court disagrees. In *Yee*, the attorney mistakenly recalled that she had completed her required MCLE courses and did not check or maintain any records to confirm if her recollection was accurate. The misconduct in *Yee* was found to be an aberrational event occurring during a 22-year unblemished legal career.

*Yee* is clearly distinguishable from the present matter. *Yee* committed a single act of moral turpitude based on gross negligence. Respondent, on the other hand, committed six acts of grossly negligent conduct amounting to moral turpitude, spanning approximately five years. Respondent's misconduct was far more extensive than *Yee* and resulted in significant harm to the administration of justice.

Therefore, after thorough consideration, the court recommends, among other things, that Respondent be suspended from the practice of law for three years, that execution of that period of suspension be stayed, and that he be placed on probation for three years, including a minimum period of actual suspension of two years and until Respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law.

**Recommendations**

It is recommended that respondent Marc A. Garcia, State Bar Number 179822, be suspended from the practice of law in California for three years, that execution of that period of suspension be stayed, and that Respondent be placed on probation[14] for a period of three years subject to the following conditions:

1. Respondent is suspended from the practice of law for a minimum of the first two years of probation, and will remain suspended until he provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(i).)

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. 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.

[14] 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. 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.

6. Within one year after the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and Respondent will not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

7. 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.

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

**Multistate Professional Responsibility Examination**

It is recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

**California Rules of Court, Rule 9.20**

It is further recommended that Respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, 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.

///

**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: September 8, 2016

LUCY ARMENDARIZ
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 San Francisco, on September 8, 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:

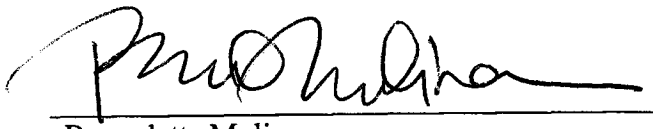
☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JEROME FISHKIN
FISHKIN & SLATTER LLP
1575 TREAT BLVD STE 215
WALNUT CREEK, CA 94598

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

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 8, 2016.



Bernadette Molina
Case Administrator
State Bar Court