STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of DeWITT MARCELLUS LACY, A Member of the State Bar, No. 258789.	)	Case No. 15-O-15213-LMA DECISION

Introduction[1]

In this contested disciplinary matter, respondent DeWitt Marcellus Lacy (Respondent) is charged with nine counts of misconduct, including seeking to mislead a judge (two counts); misrepresentation (two counts); failing to maintain respect to the court; maintaining an unjust action; presenting an unwarranted claim; failing to obey a court order; and failing to perform legal services with competence.

After thorough consideration, the court only finds Respondent culpable on one of the nine counts. Based on the facts and circumstances, as well as the applicable mitigating and aggravating factors, the court recommends, among other things, a one-year period of stayed suspension.

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 August 17, 2017. Respondent filed a response to the NDC on September 25, 2017.

[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.

On November 27, 2017, the parties filed a joint pretrial statement containing a fairly extensive stipulation of facts. A three-day trial was held in this matter on December 12-14, 2017. The State Bar was represented by Senior Trial Counsel Danielle A. Lee. Megan Zavieh represented Respondent.

After hearing the evidence at trial, the parties were referred to a post-trial voluntary settlement conference with the Honorable Pat McElroy. The court suggested this unconventional approach based on the unique facts and circumstances involved in the present matter. The matter did not settle and was ultimately submitted for decision on January 9, 2018, following the filing of closing briefs.[2]

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on December 3, 2008, and has been a member of the State Bar of California at all times since that date.

Facts

The San Francisco Superior Court Matter

Respondent is an independent contractor with the Law Offices of John L. Burris. Respondent appeared for plaintiffs Michael Beal and Ashley Jackson before the San Francisco Superior Court in a matter entitled *Michael Beal et al. v. Royal Oak Bar* (*Beal v. Royal Oak*). Counsel of record in that matter was John L. Burris.

On June 8, 2012, the superior court issued an order in *Beal v. Royal Oak*, granting the defendants' discovery motions and awarding fees for each motion against the individually named plaintiffs. On February 14, 2013, the defendants filed an application for an order to show cause re contempt and other sanctions for failure to comply with the previous discovery order.

[2] Good cause having been shown, the State Bar's unopposed motion to extend time to file its closing brief one day late is hereby granted.

On April 17, 2013, the superior court ordered sanctions in the amount of approximately $9,500 (the Sanctions Order) against the plaintiffs and their attorneys.

The Sanctions Order Appeal and Subsequent Removal

On May 2, 2013, Respondent appealed the Sanctions Order to the First District Court of Appeal (the Court of Appeal). Approximately five months later, on October 23, 2013, the defendants filed a notice of removal to the federal district court.[3] On that same day, the defendants notified the superior court about the removal, but did not notify the Court of Appeal.

From October 23, 2013 until about October 27, 2014, both parties mistakenly thought the Court of Appeal was aware of the removal issue and believed that the Court of Appeal still had jurisdiction over the Sanctions Order appeal. (See Exhibits 10 & 11.) Consequently, the parties proceeded with the appeal, the record was finalized, the matter was fully briefed, and an oral argument notice issued.

The Order to Show Cause Re: Removal

After issuing the oral argument notice, the Court of Appeal learned that the underlying case had been removed to federal district court. On October 27, 2014, the Court of Appeal issued an order to show cause why the Sanctions Order appeal should not be dismissed and why the parties and their attorneys should not be sanctioned (Order to Show Cause). The Order to Show Cause directed the parties to file a letter brief in response to the following questions:

1. Has the case underlying this appeal ... been removed to federal court?
2. When did the removal occur?
3. Has the case been remanded to state court?

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[3] On October 9, 2013, the San Francisco Superior Court granted a second motion for sanctions against plaintiffs' counsel, this time in the amount of $1,860. Shortly thereafter, *Beal v. Royal Oak* was removed to the federal district court. The federal district court later deemed the October 9, 2013 sanctions order "inappropriate" and rescinded it. (See Exhibit 28.)

4. Does this court have jurisdiction over the appeal? Under what authority? (Consider 28 U.S.C. §§ 1446 et seq; *Ward v. Resolution Trust Corp.* (8th Cir. 1992) 972 F.2d 196.)

5. Why was this court not notified of the removal and related jurisdictional issues?

6. Why should this court not impose sanctions against the parties and their attorneys of record for pursuing the appeal and/or failing to notify this court of the removal?

(Exhibit 9.)

After receiving the Order to Show Cause, both parties realized that the Court of Appeal was never notified of the removal to federal district court.[4] Respondent filed his response to the Order to Show Cause on November 4, 2014. In his response, Respondent explained that he did not know the defendants had not informed the Court of Appeal about the removal and that he believed that the Sanctions Order appeal was properly before the Court of Appeal until notified otherwise. (Exhibit 10.)

Russell Robinson (Robinson), counsel for Defendants, filed a response to the Order to Show Cause on November 6, 2014. Robinson explained that he only notified the underlying superior court and that now, after reading the *Ward* 8th Circuit matter, he believed the Court of Appeal did not have jurisdiction over the Sanctions Order appeal. (See Exhibit 11.)

On November 25, 2014, both parties were present before the Court of Appeal for oral argument on the Order to Show Cause.

Thereafter, on December 5, 2014, the Court of Appeal issued an order sanctioning Respondent and Robinson (the December 5, 2014 Sanctions Order). In its order, the Court of

[4] Federal law requires that defendants moving to remove any civil action from a state court shall promptly file a copy of the notice of removal with the clerk of the state court. (28 U.S. Code § 1446, subdivision (d).) The defendants thought they satisfied this requirement by giving notice to the San Francisco Superior Court.

Appeal noted that it "had completed its work on the appeal and was at the point of issuing a written opinion when the removal came to [the] court's attention." (Exhibit 13, p. 6.) The Court of Appeal concluded that Respondent maintained a frivolous appeal and sanctioned Respondent and opposing counsel $999 each for failing to notify the court of the removal.

As part of its December 5, 2014 Sanctions Order, the Court of Appeal stated that at the Order to Show Cause hearing Respondent represented "for the first time that he thought he had notified [the Court of Appeal] of the removal in [his] appendix and ... opening brief." (Exhibit 13, p. 3.) Respondent, however, denies ever making this statement. His testimony on this point was corroborated by opposing counsel, Stella Fey Epling, who testified in this proceeding that she did not recall Respondent making such a statement at the Order to Show Cause hearing. Further, there is no transcript of the Order to Show Cause hearing and there was no evidence that any of the Court of Appeal judges independently recall Respondent making that statement.

Status Reports and Second Order to Show Cause

In its December 5, 2014 Sanctions Order, the Court of Appeal also ordered that the parties provide the Court with quarterly updates regarding the status of the removal. Specifically, the order stated:

> On the first court days of January, April, July, and October, appellants Michael Beal and Ashley Jackson, and respondent Ares Papageorge, shall serve and file with this court brief status reports to apprise the court of the current status of the federal proceedings, including any remand or entry of judgment. Failure to do so shall be a basis for the imposition of further sanctions.
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> (Exhibit 13, p. 6.)

This order did not require that Respondent file the status reports.

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The first status report was due on "the first court days" of January 2015. Respondent, through his staff, filed his clients' first status report on January 15, 2015 – approximately two weeks late.[5] Respondent filed his clients' second status report timely on April 1, 2015.

On July 27, 2015, Respondent's staff attempted to file the third status report with the Court of Appeal; however, this attempted filing was mistakenly done by mail, rather than by electronic filing. (See Exhibit 20.) The Court of Appeal did not receive the July 27, 2015 status report, but it was received by opposing counsel.

On September 18, 2015, the Court of Appeal issued an order stating that it had not received a status report on behalf of Michael Beal and Ashley Jackson since April 1, 2015. (Exhibit 19.) The Court of Appeal therefore ordered Michael Beal, Ashley Jackson, and Respondent (as attorney for Beal and Jackson) to show cause why they should not be sanctioned for failing to file the status report that was due on July 1, 2015 (the Second Order to Show Cause). Beal, Jackson, and Respondent were permitted to file a response to the Second Order to Show Cause by on or before October 1, 2015.

Upon receipt of the Court of Appeal's Second Order to Show Cause, Respondent, on September 18, 2015, effectuated the filing of his clients' third status report. This filing, however, was approximately two-and-a-half months late.

On October 1, 2015, Respondent filed a response to the Second Order to Show Cause.[6] The response attached declarations from Respondent and a clerk from the Law Offices of John Burris – Brandon Yee (Yee). In his declaration, Respondent stated that he directed support staff to prepare and file the third status report on or about July 27, 2015. He went on to state that "due

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[5] The proof of service attached to Respondent's first status report erroneously identified the document as "Plaintiffs' Second Re-Notice of Deposition of Person Most Knowledgeable (PMK) Katherine Papageorge." (Exhibit 15, p. 3.)

[6] That same day, Respondent timely filed his clients' fourth status report.

to the inexperience of a new employee," the third status report was sent to the Court of Appeal for filing via U.S. Postal Service rather than electronic filing. (Exhibit 22.) The "new employee" Respondent was referring to was Angelina Austin;[7] however, Respondent's October 1, 2015 response and accompanying declaration were poorly drafted and indicated that Yee was the "new employee."

In Yee's declaration, he stated that he sent five copies of the third status report, via U.S. Postal Service, on "June 27, 2015." This statement is consistent with the Certificate of Service Yee executed on July 27, 2015.[8] Yee did not state in his declaration that he was the one who filed the third status report with the Court of Appeal.

On October 8, 2015, the Court of Appeal issued an order pertaining to the Second Order to Show Cause. In this order, the Court of Appeal dismissed the Sanctions Order appeal and also sanctioned Respondent and his clients, jointly and severally, in the amount of $1,000. The Court of Appeal reasonably understood Respondent to be asserting that Yee was the "new employee" who improperly filed the third status report. To undercut this assertion, the Court of Appeal, cited to Yee's LinkedIn profile, which indicated that he was not a new employee with the Law Offices of John L. Burris. (Exhibit 25, p. 3.)

Conclusions

Count One – Section 6068, Subd. (d) [Seeking to Mislead a Judge]

Section 6068, subdivision (d), provides that an attorney has a duty to employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of law or fact. The State Bar alleged that Respondent violated

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[7] Austin testified in these proceedings that she was the one who filed the third status report by mail with the Court of Appeal.

[8] Yee's declaration erroneously listed the mailing date as June 27, 2015, rather than July 27, 2015.

section 6068, subdivision (d), by stating to the Court of Appeal, on November 25, 2014, that he thought he had notified the Court of Appeal of the removal when Respondent knew that statement to be false.

Count One, however, has not been established by clear and convincing evidence. The only evidence indicating that Respondent made the alleged statement is contained in the Court of Appeal's December 5, 2014 order. Respondent and opposing counsel both testified that Respondent did not make such a statement. Further, there is no transcript of the hearing and there was no evidence that any of the Court of Appeal judges independently recall Respondent making that statement.[9] Accordingly, Count One is dismissed with prejudice.

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. The State Bar alleged that Respondent violated section 6106 by stating to the Court of Appeal, on November 25, 2014, that he thought he had notified the Court of Appeal of the removal when Respondent knew that statement to be false and misleading. As addressed in Count One, these allegations were not established by clear and convincing evidence. Accordingly, Count Two is dismissed with prejudice.

Count Three – Section 6068, Subd. (b) [Maintaining Respect Due to the Court]

Section 6068, subdivision (b), provides that attorneys have a duty to maintain respect due to the courts of justice and judicial officers. The State Bar alleged that Respondent violated section 6068, subdivision (b), by stating to the Court of Appeal, on November 25, 2014, that he thought he had notified the Court of Appeal of the removal when Respondent knew or was

[9] Even if it were established that Respondent had made the alleged statement, it was not proven by clear and convincing evidence that, at the time the statement was made, Respondent knew it to be false or misleading.

grossly negligent in not knowing the statement was false. Once again, as addressed in Count One, these allegations were not established by clear and convincing evidence. Accordingly, Count Three is also dismissed with prejudice.

Count Four – Section 6068, Subd. (c) [Duty to Maintain Legal or Just Actions])

Section 6068, subdivision (c), requires members to ". . . maintain those actions, proceedings, or defenses only as appear to him or her legal or just." Here it was alleged that Respondent violated section 6068, subdivision (c), by maintaining an appeal that was frivolous and without merit due to the fact that the Court of Appeal lost jurisdiction over the Sanctions Order appeal when the underlying case was removed to the federal district court.

The California Supreme Court has provided a roadmap for determining whether or not an appeal is frivolous. In *In re Marriage of Flaherty* (1982) 31 Cal.3d 637, the Supreme Court considered the subjective and objective standards for frivolous appeals. The subjective standard considers the parties' motives and the objective standard looks to whether a reasonable person would agree that the issue is totally and completely devoid of merit. (*Id.* at p. 649.)

The evidence before this court does not satisfy either of these standards. First, it has not been demonstrated that Respondent was driven by any type of improper motivation. Before the Court of Appeal asked the parties to address the issue of jurisdiction, both Respondent and opposing counsel mistakenly thought the Court of Appeal was aware of the removal issue and believed that the Court of Appeal had jurisdiction to hear the limited issue relating to the Sanctions Order appeal. (See Exhibits 10 & 11.) Accordingly, under the subjective standard from *Marriage of Flaherty* the appeal was not frivolous.

Second, this court considers whether the objective standard is applicable, i.e., would a reasonable person agree that the issue is totally and completely devoid of merit. The question of whether or not the Court of Appeal had jurisdiction over the Sanctions Order appeal after

removal appears to be a fairly novel issue. Before the Court of Appeal raised the issue, neither Respondent nor opposing counsel believed the Court of Appeal had lost jurisdiction over the Sanctions Order appeal. Even the Court of Appeal, after presumably researching the issue, demonstrated some uncertainty on this issue, as it cited to an 8th Circuit case and asked the parties to present contradictory authority. Furthermore, even Federal Magistrate Judge Laurel Beeler testified in these proceedings that she, at least initially, was not sure who had jurisdiction over the Sanctions Order appeal.

Accordingly, this court concludes that the issue of whether or not the Court of Appeal had lost jurisdiction to hear the sanctions appeal was not totally and completely devoid of merit. So while this court gives great deference to the Court of Appeal's December 5, 2014 finding that Respondent maintained a frivolous appeal, this court lacks the clear and convincing evidence necessary to establish a violation of section 6068, subdivision (c). Accordingly, Count Four is dismissed with prejudice.

Count Five – Rule 3-200(B) [Presenting an Unwarranted Claim]

Rule 3-200(B) provides: "[a] member shall not seek, accept, or continue employment if the member knows or should know that the objective of such employment is … to present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by a good faith argument for an extension, modification, or reversal of such existing law." As addressed in Count Four, there was a significant degree of uncertainty surrounding the jurisdiction issue. This was a unique set of circumstances and Respondent believed that the Court of Appeal had been made aware of the removal. As such, Count Five has not been established by clear and convincing evidence, and that count is dismissed with prejudice.

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Count Six – Section 6103 [Failure to Obey a Court Order]

Section 6103 provides, in pertinent part, that a willful disobedience or violation of a court order requiring an attorney to do or forbear an act connected with or in the course of the attorney's profession, which an attorney ought in good faith to do or forbear, constitutes cause for suspension or disbarment. The State Bar alleged that Respondent violated section 6103 by failing to comply with the status reporting requirement contained in the Court of Appeal's December 5, 2014 order.

The court disagrees. The underlying court order specifically required the *clients* to comply with the status reporting requirement. While the clients delegated this duty to Respondent, his failure to timely file status reports does not rise to the level of a failure to obey a court order because Respondent had not been ordered to comply with the underlying order. Count Six is therefore dismissed with prejudice.[10]

Count Seven – Section 6068, Subd. (d) [Seeking to Mislead a Judge]

The State Bar alleged that Respondent violated section 6068, subdivision (d), by falsely stating in his response to the Second Order to Show Cause that the third status report was mailed to the Court of Appeal for filing due to the inexperience of a new employee, when the third status report had never been mailed to the Court of Appeal for filing and the employee was not new. At trial, however, it was not established by clear and convincing evidence that: (1) the third status report had never been mailed to the Court of Appeal for filing; or (2) Respondent falsely attributed the mistake to the inexperience of a new employee. Consequently, Count Seven has not been established by clear and convincing evidence, and that charge is dismissed with prejudice.

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[10] Respondent's failure to timely file status reports on his clients' behalf is more akin to a failure to competently perform legal services, as discussed in Count Nine.

Count Eight – Section 6106 [Moral Turpitude – Misrepresentation]

Count Eight was based on the same alleged misconduct as Count Seven, with the caveat that the State Bar charged Count Eight under two different theories – intentional misrepresentation and grossly negligent misrepresentation. As noted above, neither of the alleged misrepresentations was proven, by clear and convincing evidence, to actually be a misrepresentation. Accordingly, Count Eight is dismissed with prejudice.

Count Nine – Rule 3-110(A) [Failure to Perform Legal Services with Competence]

Rule 3-110(A) provides that an attorney must not intentionally, recklessly, or repeatedly fail to perform legal services with competence. Rule 3-110(A) includes the duty to supervise the work of staff. (*In the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627, 634.)

The State Bar alleged that Respondent violated rule 3-110(A) by failing to supervise support staff responsible for serving and filing court documents which resulted in the status reports due on the first court days of January and July 2015 being filed late. The court agrees. The evidence before the court demonstrates that Respondent, who delegated much of these responsibilities to his support staff, willfully failed to perform legal services with competence by repeatedly filing his clients' status reports late with the Court of Appeal.

Aggravation[11]

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Std. 1.5.)

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

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

Effective January 19, 2012, Respondent was privately reproved with conditions in State Bar Court case Nos. 10-O-02190 (10-O-03451; 11-O-15792). In that matter, Respondent stipulated to failing to competently perform legal services in three separate client matters. Respondent also stipulated to failing to communicate significant developments and failing to promptly refund unearned fees in one of those matters. In mitigation, Respondent cooperated with the State Bar. In aggravation, Respondent committed multiple acts of misconduct.

Considering that the present misconduct involves somewhat similar misconduct, the court assigns significant weight to Respondent's prior record of discipline.

Mitigation

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 circumstances.

Good Character (Std. 1.6(f).)

Respondent presented character testimony from seven witnesses and declarations from two additional witnesses. Respondent's nine character witnesses consisted of a Federal Magistrate Judge and eight attorneys from different backgrounds and concentrations. Respondent's character witnesses demonstrated a general understanding of the alleged misconduct and attested to his honesty, good character, and commitment to serving under-represented communities. Specifically, Federal Magistrate Judge Laurel Beeler described Respondent as honest and quick to confess errors. Most of Respondent's other character witnesses praised his professionalism and characterized him as a passionate litigator.

All of Respondent's character witnesses were affiliated with the legal community, so the weight afforded Respondent's character evidence is somewhat diminished by the fact that his

character witnesses do not fully represent a wide range of references from the general and legal communities. Nonetheless, Respondent's impressive array of character witnesses still warrants significant weight in mitigation. (See *In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 591-592 [significant mitigative weight accorded to only three character witnesses consisting of two attorneys and a retired fire chief].)

Cooperation with the State Bar (Std. 1.6(e).)

Respondent entered into stipulations regarding facts and the admissibility of evidence. Respondent's cooperation preserved court time and resources and warrants moderate mitigation credit. (See *In the Matter of Respondent K* (1993) 2 Cal. State Bar Ct. Rptr. 335, 358 [mitigation credit for exemplary and cooperative conduct during disciplinary proceedings despite vigorous defense].)

Discussion

The primary purposes of attorney discipline are to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; std. 1.1.)

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.) 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.

Standard 2.7(c) is applicable to the misconduct in this matter. Standard 2.7(c) provides that suspension or reproval is the presumed sanction for performance, communication, or

withdrawal violations, which are limited in scope or time. The degree of sanction depends on the extent of the misconduct and the degree of harm to the client or clients.

Due to Respondent's prior record of discipline, the court also looks to standard 1.8(a) for guidance. Standard 1.8(a) provides that if an attorney has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct was not serious enough that imposing greater discipline would be manifestly unjust.

The Supreme Court gives the standards "great weight" and will reject a recommendation consistent with the standards only where the court entertains "grave doubts" as to its propriety. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) As the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn.2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

The State Bar argued, among other things, that Respondent should be actually suspended for a period of 30 days. Respondent, on the other hand, requested a dismissal of all charges. In determining the appropriate discipline to be recommended, the court found *Stuart v. State Bar* (1985) 40 Cal.3d 838, to be somewhat instructive.

In *Stuart*, the client's personal injury claim was dismissed due to the attorney's failure to answer defense interrogatories. The attorney also failed to communicate with his client, despite his client's numerous attempts to contact him. In aggravation, the attorney had a prior record of discipline consisting of a private reproval. Noting the attorney's carelessness in running his office and demonstrated lack of diligence and concern for his client's interests, the Supreme Court found that, "[s]ome actual suspension [was] necessary to bring home to [the attorney] the high degree of care and fiduciary duty he owes to those he represents." *Stuart v. State Bar*,

supra, 40 Cal.3d at p. 847. The attorney received a one year suspension, stayed, with one year probation, including a 30-day actual suspension.

The present case is somewhat similar to *Stuart*. Like *Stuart*, Respondent's prior discipline for failing to competently perform legal services did not prevent the present misconduct. This raises some concerns regarding Respondent's ability – going forward – to conform to the high ethical standards of the profession.

That being said, the present matter involves more mitigation and less serious misconduct than that found in *Stuart*. Unlike *Stuart*, Respondent was only found culpable on one count of misconduct and the present misconduct did not result in significant client harm. Therefore, after weighing all the surrounding facts and circumstances, this court finds appropriate a lower level of discipline than that found in *Stuart*.

Accordingly, the 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.

Recommendations

It is recommended that respondent DeWitt Marcellus Lacy, State Bar Number 258789, 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[12] for a period of two years subject to the following conditions:

1. 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.

2. 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

[12] 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.)

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.

3. 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.

4. 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.

5. 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 requirement, and Respondent will not receive Minimum Continuing Legal Education credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)

6. 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 (MPRE) 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 the same period.

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: March 5, 2018

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 Court Specialist 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 March 5, 2018, 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:

MEGAN E. ZAVIEH
12460 CRABAPPLE RD STE 202-272
ALPHARETTA, GA 30004

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

Danielle A. Lee, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 5, 2018.

Vincent Au
Court Specialist
State Bar Court