

FILED

JUL 22 2015

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

1 THE STATE BAR OF CALIFORNIA
2 OFFICE OF PROBATION
3 TERRIE GOLDADE, No. 155348
4 SUPERVISING ATTORNEY
5 845 South Figueroa Street
6 Los Angeles, California 90017-2515
7 Telephone: (213) 765-1000

8 STATE BAR COURT

9 HEARING DEPARTMENT - LOS ANGELES

10 In the Matter of:) Case No. 15-PM- **13489**
11)
12 STEVEN MICHAEL McCARTHY,) MOTION TO REVOKE PROBATION;
13 No. 85433,) MEMORANDUM OF POINTS AND
14 A Member of the State Bar) AUTHORITIES; DECLARATION OF MAY
15) LING FERNANDEZ; EXHIBITS 1 THROUGH
16) 3; PROBATION REVOCATION RESPONSE
17) FORM [Rule 5.310 et seq., Rules of Procedure
18) of the State Bar]

16 **TO: The State Bar Court and Steven Michael McCarthy, Respondent:**

17 **PLEASE TAKE NOTICE THAT** the State Bar of California, Office of Probation,
18 hereby moves pursuant to Rules of Procedure of the State Bar of California, rules 5.310, et seq.,
19 to revoke the probation imposed upon Steven Michael McCarthy ("Respondent") in prior
20 disciplinary case no. 14-J-02524 and to impose upon Respondent the entire period of suspension
21 of one year previously stayed by order no. S222035 of the Supreme Court filed on December 9,
22 2014. The State Bar requests that Respondent be ordered to comply with rule 9.20, California
23 Rules of Court, and that Respondent be placed on involuntary inactive enrollment pursuant to
24 Business and Professions Code section 6007(d).

25 This motion is based upon the factual allegations that Respondent has violated the terms
26 of probation imposed on Respondent by the aforementioned order as follows:

27 1. As a condition of probation, Respondent was ordered to, within 30 days from the
28 effective date of his discipline, by February 7, 2015, contact the Office of Probation and schedule

1 a meeting with his assigned probation deputy to discuss the terms and conditions of his
2 probation. Respondent has not complied in that he has not contacted the Office of Probation to
3 schedule such a meeting, and no such meeting has been held.

4 2. As a condition of his probation, Respondent was ordered to comply with the State
5 Bar Act and the Rules of Professional Conduct and to report such compliance to the Office of
6 Probation under penalty of perjury to the Office of Probation on each January 10, April 10, July
7 10, and October 10 ("quarterly reports"). Respondent has not complied in that he has failed to
8 file his first two quarterly reports, which were due April 10 and July 10, 2015.

9 This motion is also based on the attached Memorandum of Points and Authorities, the
10 attached Declaration of May Ling Fernandez, the attached exhibits, and all documents on file
11 with the court in this matter.

12 In accordance with rules 5.314(A) and 5.314(E) of the Rules of Procedure of the State
13 Bar of California, the Office of Probation requests that a hearing be held unless the Court, based
14 upon this motion and any response, determines that imposition of the discipline as requested
15 above is warranted.

16 **NOTICE – FAILURE TO RESPOND**

17 YOUR FAILURE TO FILE A RESPONSE WITHIN TWENTY (20) DAYS OF
18 SERVICE OF THIS MOTION WILL CONSTITUTE AN ADMISSION OF THE
19 FACTUAL ALLEGATIONS CONTAINED IN THIS MOTION AND MAY
20 RESULT IN THE IMPOSITION OF ACTUAL SUSPENSION PURSUANT TO
21 THE UNDERLYING DISCIPLINARY ORDER. ALSO, FAILURE TO
22 REQUEST A HEARING WILL CONSTITUTE A WAIVER OF YOUR RIGHT
23 TO A HEARING. SEE RULE 5.314(B) OF THE RULES OF PROCEDURE OF
24 THE STATE BAR.

25 **NOTICE – INACTIVE ENROLLMENT**

26 YOU ARE HEREBY NOTIFIED THAT, PURSUANT TO BUSINESS AND
27 PROFESSIONS CODE SECTION 6007(d), IF THE STATE BAR COURT
28 RECOMMENDS ACTUAL SUSPENSION ON ACCOUNT OF A PROBATION
VIOLATION OR OTHER DISCIPLINARY MATTER, YOU MAY BE
INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE
STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION
TO ANY DISCIPLINE RECOMMENDED BY THE STATE BAR COURT.
SEE RULE 5.315, RULES OF PROCEDURE OF THE STATE BAR.

NOTICE – COST ASSESSMENT

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE,
YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY

1 THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF
2 THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE
3 SECTION 6086.10. SEE RULE 5.129, ET SEQ., RULES OF PROCEDURE OF
4 THE STATE BAR.

5 Respectfully submitted,

6 THE STATE BAR OF CALIFORNIA
7 OFFICE OF PROBATION

8 DATED: July 22, 2015

9 By: Terrie Goldade

10 Terrie Goldade
11 Supervising Attorney
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. RESPONDENT HAS NOT COMPLIED WITH THE TERMS OF PROBATION, AND
3 PROBATION SHOULD BE REVOKED.

4 By order filed December 9, 2014, the Supreme Court imposed discipline on Respondent
5 in case no. S222035. The Supreme Court suspended Respondent for one year but stayed the
6 execution of the suspension on the condition that Respondent comply with all terms of probation.

7 As terms of probation, Respondent was ordered as follows:

- 8 1. within 30 days from the effective date of his discipline, by February 7, 2015, contact
9 the Office of Probation and schedule a meeting with his assigned probation deputy to
10 discuss the terms and conditions of his probation. Respondent has not complied in that
11 he has not contacted the Office of Probation to schedule such a meeting, and no such
12 meeting has been held.
- 13 2. to comply with the State Bar Act and the Rules of Professional Conduct and to report
14 such compliance to the Office of Probation under penalty of perjury to the Office of
15 Probation on each January 10, April 10, July 10, and October 10 ("quarterly reports").
16 Respondent has not complied in that he has failed to file his first two quarterly reports,
17 which were due April 10 and July 10, 2015.

18 Consequently, the State Bar Court should recommend revocation of Respondent's probation.

19 Attached hereto as Exhibit 1 is a certified copy of Respondent's registration card and
20 Respondent's membership records address history with the State Bar of California. Exhibit 1
21 will be offered as evidence based upon the certification of Membership Records and
22 Certification to show that Respondent was properly served in this proceeding.

23 A. Respondent Was Served With The Supreme Court Order.

24 It is presumed that Respondent was served with the disciplinary order of the Supreme
25 Court imposing a period of probation. The clerks of the reviewing courts have a duty to transmit
26 a copy of all decisions of those courts to the parties. (California Rules of Court, rule 8.532(a).)
27 Pursuant to Evidence Code section 664, there is a rebuttable presumption that such official duties
28 have been regularly performed. Therefore, absent any evidence to the contrary, it is presumed

1 that the Supreme Court clerk has complied with the duty to transmit to Respondent a copy of the
2 order placing Respondent on probation. (*In re Linda D.* (1970) 3 Cal.App. 3d 567; *People v.*
3 *Smith* (1965) 234 Cal.App.2d 407; *Fischer v. Lukens* (1919) 41 Cal.App. 358.)

4 B. Respondent's Violation of Probation Was Willful

5 Violation of a condition of probation must be willful to warrant discipline. (*In the Matter*
6 *of Potack* (1991 Review Dept.) 1 Cal. State Bar Ct. Rptr. 525.) A willful failure is demonstrated
7 by a general purpose or willingness to permit the omission and can be proven by direct or
8 circumstantial evidence. (*Durbin v. State Bar* (1979) 23 Cal.3d 461; *Zitny v. State Bar* (1966) 64
9 Cal.2d 787.) It does not require bad faith.

10 The burden of proof in a probation revocation proceeding is the preponderance of the
11 evidence. (Rule 5.311, Rules of Procedure.) For purposes of determining culpability, it is
12 misguided to distinguish between "substantial" and "insubstantial" or "technical" violations of
13 probation conditions. (*In the Matter of Potack*, supra.) Respondent's failure to comply with
14 probation demonstrates a lack of concern about professional responsibilities, and therefore,
15 probation should be revoked.

16 II. RESPONDENT'S VIOLATION OF PROBATION WARRANTS THE IMPOSITION
17 OF THE FULL STAYED SUSPENSION.

18 In a probation revocation proceeding, the hearing judge may recommend actual
19 suspension up to the entire period of stayed suspension. (Rule 5.312, Rules of Procedure.) In
20 this case, the Supreme Court imposed a stayed suspension of one year. Based on the violation of
21 probation, the hearing judge should now recommend that Respondent be actually suspended for
22 the full period of stayed suspension.

23 III. UPON FINDING OF VIOLATION OF PROBATION, THE COURT MAY ORDER A
24 RESPONDENT PLACED ON INACTIVE STATUS.

25 In a probation revocation proceeding, the hearing judge may order the involuntary
26 inactive enrollment of a Respondent upon a finding that each of the elements of Business and
27 Professions Code section 6007(d) have occurred. (Rule 5.315, Rules of Procedure.) Those
28 elements have occurred where the Respondent is under an order of stayed suspension with a

1 period of probation and has violated that probation and where the hearing judge recommends a
2 period of actual suspension. (Business and Professions Code, section 6007(d)(1).) See *In the*
3 *Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 531-532. The order
4 enrolling a respondent inactive shall be effective upon service unless otherwise ordered by the
5 judge. (Rule 5.315, Rules of Procedure.)

6 CONCLUSION

7 The Supreme Court has stayed Respondent's suspension and placed him on probation,
8 and Respondent has violated that probation. The State Bar requests that the hearing judge
9 recommend revocation of Respondent's probation and the imposition of one year of actual
10 suspension. Furthermore, the hearing judge should order Respondent placed on involuntary
11 inactive enrollment until the suspension is effective and order Respondent to comply with Rule
12 9.20, California Rules of Court.

13 Respectfully submitted,

14 THE STATE BAR OF CALIFORNIA
15 OFFICE OF PROBATION

16
17 DATED: July 22, 2015

18 By: Terrie Goldade
19 Terrie Goldade
20 Supervising Attorney
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1 7. A review of the probation file on Respondent reflects that a disciplinary order
2 imposing probation is contained therein. A certified copy of said order, filed on December 9,
3 2014, is attached hereto and incorporated by reference as Exhibit 2. A certified copy of the
4 stipulation filed August 15, 2014 is also included within Exhibit 2 for the Court's convenience.
5 Pursuant to said order, the terms and conditions of probation imposed on Respondent include the
6 following:

7 a. within 30 days from the effective date of his discipline, by February 7, 2015,
8 contact the Office of Probation and schedule a meeting with his assigned probation
9 deputy to discuss the terms and conditions of his probation. Respondent has not
10 complied in that he has not contacted the Office of Probation to schedule such a meeting,
11 and no such meeting has been held.

12 b. to comply with the State Bar Act and the Rules of Professional Conduct and to
13 report such compliance to the Office of Probation under penalty of perjury to the Office
14 of Probation on each January 10, April 10, July 10, and October 10 ("quarterly reports").
15 Respondent has not complied in that he has failed to file his first two quarterly reports,
16 which were due April 10 and July 10, 2015.

17 8. As Custodian of Records, I have reviewed the entire contents of the probation file
18 on Respondent which reflects that the relevant portions of the disciplinary orders imposing
19 probation and a letter confirming the terms and conditions of probation, including suspension,
20 were provided to the Respondent on January 21, 2015.

21 9. The following documents, attached hereto and incorporated by reference
22 collectively as Exhibit 3, are contained in the Office of Probation file maintained on respondent:

23 a. Reminder letter mailed to Respondent on January 21, 2015 outlining the terms
24 and conditions of his probation.

25 b. Letter mailed to Respondent at his membership records address on June 3,
26 2015 noting his noncompliance with his probation conditions.

27 c. Letter e-mailed to Respondent at his membership records e-mail address on
28 June 3, 2015 noting his noncompliance with his probation conditions.

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- d. E-mail notifications that a temporary error had occurred in delivering June 3, 2015 e-mail to Respondent and of permanent error.
- e. June 10, 2015 fax to Respondent's membership records fax number noting his noncompliance with his probation conditions with communication journal showing that fax could not be delivered.
- f. E-mail to Respondent on June 10, 2015 to a different e-mail address noting that his membership records e-mail and fax information did not work and reminding him that he is required to update his contact information within 10 days of any change. A copy of the June 3, 2015 letter was attached to the e-mail.
- g. June 10, 2015 e-mail reply from Respondent requesting a copy of the fax transmission and the letter "hereinbelow falsely represent[ed] as attached" to the e-mail.
- h. E-mail trail of Office of Probation's e-mail response to Respondent on June 11, 2015 to both his membership records and alternate e-mail addresses setting forth in detail attempts to contact him and noting that the June 3, 2015 letter to him had been attached to the June 10, 2015 e-mail. Respondent's June 15, 2015 response did not address the substance of the Office of Probation's e-mail except for asking if he could "just quit the California bar" and that he was "not able to comply with the terms of my 'probation.'"
- i. June 11, 2015 e-mail notification that a temporary error had occurred in delivering June 11, 2015 e-mail to Respondent's membership records e-mail address.
- j. June 16, 2015 e-mail notification that a permanent error had occurred in delivering June 11, 2015 e-mail to Respondent's membership records e-mail address.
- k. E-mail trail including June 16, 2015 response to Respondent's alternate (not membership records) e-mail and Respondent's e-mail of June 15, 2015 with

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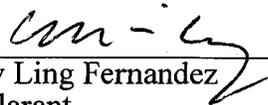
resignation with charges pending documents attached. Delivery confirmation is included.

10. A complete review of the Respondent's file reflects that none of the letters referred to above were returned to the State Bar of California, Office of Probation by the United States Postal Service as undeliverable, or for any other reason.

11. Although the proof is not due until February 7, 2016, Respondent has not provided proof of completion of 12 hours of continuing legal education in legal ethics.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 22nd day of July, 2015 at Los Angeles, California.



May Ling Fernandez
Declarant

DECLARATION OF SERVICE BY CERTIFIED AND REGULAR MAIL

CASE NUMBER(s): NEW PM

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 845 S. Figueroa Street, Los Angeles, California 90017-2515, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

MOTION TO REVOKE PROBATION; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF MAY LING FERNANDEZ EXHIBITS 1 THROUGH 5; PROBATION REVOCATION RESPONSE FORM { Rule 5.310 et seq., Rules of Procedure of the State Bar }

in a sealed envelope placed for collection and mailing as Certified mail #7160 3901 9845 4871 9420 and **regular mail** mailed at Los Angeles, on the date shown below, addressed to:

Steven Michael McCarthy
POB 3524
DeLand, FL 32721

Courtesy copy by regular mail to:
Steven Michael McCarthy
POB 3524
DeLand, FL 32721

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: July 22, 2015

SIGNED:



Mia Hibler
Declarant

Counsel for Respondent	(for Court use)
In the Matter of Bar # A member of the State Bar of California ("Respondent")	Case no(s). PROBATION REVOCATION RESPONSE (Rule 5.314, Rules of Procedure)

As required by rule 5.314(B), Rules of Procedure, Respondent attaches one or more declarations to this form which set forth the facts upon which my opposition to the motion to revoke probation is based.

(1) Respondent requests a hearing in this matter and intends to participate.

OR

(2) Respondent requests that this proceeding be resolved on the pleadings without any hearing.

If you checked box (1), check one of the following:

(a) Respondent requests the opportunity to cross-examine the person(s) who executed declaration(s) in support of the motion to revoke my probation.

(b) Respondent does not request the opportunity to cross-examine the person(s) who executed declaration(s) in support of the motion to revoke my probation.

Date: _____

Signature



THE STATE BAR OF CALIFORNIA

MEMBER RECORDS & COMPLIANCE

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617

TELEPHONE: 888-800-3400

July 9, 2015

TO WHOM IT MAY CONCERN:

I, Louise Turner, Custodian of Membership Records of the State Bar of California, hereby certify that attached is a full, true and correct copy of the registration card on file in the Membership Records Department of the State Bar of California for STEVEN MICHAEL MCCARTHY, #85433.

THE STATE BAR OF CALIFORNIA

A handwritten signature in cursive script that reads "Louise Turner".

Louise Turner
Custodian of Membership Records

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LEAVE THIS SECTION
BLANK

MCCARTHY

STEVEN

MICHAEL

Surname (Please Print or Type)

Given Name or Names

85433

OFFICE ADDRESS:

Street and number

No.

5-31-79

City - State

Zip Code

Date Admitted

Date of birth 5/2/49

Place of birth MORRISTOWN NJ

If not born in United States, when and where naturalized? N/A

Undergraduate degree from UNIV. of VIRGINIA Law degree from Golden Gate Univ.

Dates and places of prior admission to practice NONE

Dates and places of actual practice prior to admission in California NONE

Date 5/21/79

Signature STEVEN M. MCCARTHY

MICROFILMED

THE STATE BAR OF CALIFORNIA
REGISTRATION CARD



THE STATE BAR
OF CALIFORNIA

MEMBER RECORDS & COMPLIANCE

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617

TELEPHONE: 888-800-3400

July 9, 2015

TO WHOM IT MAY CONCERN:

I, Louise Turner, Custodian of Membership Records of the State Bar of California, hereby certify that attached is a full, true and correct copy of the address history on file in the Membership Records Department of the State Bar of California for STEVEN MICHAEL MCCARTHY, #85433 from November 25, 1985 to the date of this certificate.

THE STATE BAR OF CALIFORNIA

Louise Turner
Custodian of Membership Records

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MM595R2

MEMBER ADDRESS CHANGE HISTORY

Print Date: 7/09/15

Member #: 085433

Date of Admission: 5/31/1979 Status: Active

Effective: 5/31/1979

Name: Steven Michael McCarthy

Address:

Eff: 7/24/2014

POB 3524
DeLand FL 32721

Eff: 2/14/2008

1265 Hwy 51
Independence OR 97351

Eff: 5/19/2005

1946 Embarcadero
Oakland CA 94606 5213

Eff: 3/10/1992

2100 Embarcadero #100
Oakland CA 94606

Eff: 2/25/1991

Jacoby & Meyers
311 California St #700
San Francisco CA 94104

Eff: 2/12/1991

Jacoby & Meyers
311 California St
San Francisco CA 94104

Eff: 11/02/1989

McCarthy & Wakeley
1120 E 14th St #E
San Leandro CA 94577

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MM595R2

MEMBER ADDRESS CHANGE HISTORY

Print Date: 7/09/15

Member #: 085433

Date of Admission: 5/31/1979 Status: Active

Effective: 5/31/1979

Name: Steven Michael McCarthy

Address:

Eff: 2/16/1988

McCarthy & Wakkley
1124 E 14th St #B
San Leandro CA 94577

Eff: 2/22/1988

1124 E 14th St #B
San Leandro CA 94577

Eff: 11/25/1985

580 Grand Avenue
Oakland CA 94610

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DEC 09 2014

(State Bar Court No. 14-J-02524)

S222035

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re STEVEN MICHAEL McCARTHY on Discipline

The court orders that Steven Michael McCarthy, State Bar Number 85433, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Steven Michael McCarthy must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 15, 2014; and
2. At the expiration of the period of probation, if Steven Michael McCarthy has complied with the terms of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

Steven Michael McCarthy must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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. One-third of the costs must be paid with his membership fees for each of the years 2016, 2017, and 2018. If Steven Michael McCarthy fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

CANTIL-SAKAUYE
Chief Justice

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

day of DEC 9 2014
Clerk

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(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles STAYED SUSPENSION			PUBLIC MATTER
Counsel For The State Bar William Todd Deputy Trial Counsel 845 South Figueroa Street Los Angeles, California 90017-2515 213-765-1491 Bar # 259194	Case Number(s): 14-J-02524	For Court use only <div style="text-align: center;"> FILED AUG 15 2014 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>	
In Pro Per Respondent Steven M. McCarthy POB 3524 DeLand, Florida 32721 386-736-8668 Bar # 85433	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED		
In the Matter of: STEVEN MICHAEL MCCARTHY Bar # 85433 A Member of the State Bar of California (Respondent)			

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **May 31, 1979**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective January 1, 2014)

(Do not write above this line.)

- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- Costs are added to membership fee for calendar year following effective date of discipline.
 - Costs are to be paid in equal amounts prior to February 1 for the following membership years: **the three billing cycles immediately following the Supreme Court order in this matter.** (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) Prior record of discipline
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) Dishonesty: Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. Please see "Attachment to Stipulation," at page 9.

(Do not write above this line.)

- (8) **Restitution:** Respondent failed to make restitution.
- (9) **No aggravating circumstances** are involved.

Additional aggravating circumstances

Please see "Lack of Insight," at page 9.

C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted with a good faith belief that was honestly held and reasonable.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

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(Do not write above this line.)

Additional mitigating circumstances

Please see "No Prior Discipline," at page 9.

Please see "Pre-Filing Stipulation," at page 9.

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D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one year**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) Within thirty (30) days from 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.
- (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 conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

(Do not write above this line.)

- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Please see section "F (2)" below.
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

No MPRE recommended. Reason:

- (2) **Other Conditions:**

As a condition of Respondent's probation and in lieu of attending State Bar Ethics School (which would require Respondent to return to California from his current home in Oregon), Respondent shall complete 12 hours of continuing legal education in legal ethics within one year of the effective date of this stipulation and provide proof, in writing, to the Office of Probation within 30 days thereafter. This requirement is separate from any MCLE requirement, and Respondent will not receive any MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar).

("TILA"), the Real Estate Settlement Procedures Act ("RESPA"), and various other contract and tort claims.

8. At the time Respondent filed the Robertson complaint, Respondent had no prior experience with TILA or RESPA matters, and he did not read the complete TILA or RESPA statutes before filing the complaint, choosing instead to rely upon sample pleadings. Prior to filing the lawsuit, Respondent did not know that filing a lawsuit against Robertson's mortgage lender exposed Robertson to a deficiency judgment in excess of \$500,000, and Respondent did not warn Robertson of the potential for a deficiency judgment.

9. On September 9, 2008, Robertson attempted to contact Respondent via e-mail, seeking information about Robertson's case. Respondent received the e-mail but did not respond, and on October 20, 2008, Robertson sent an additional e-mail. Respondent received this e-mail, and did reply with an update on the Robertson complaint.

10. On January 30, 2009, Robertson again requested an update on her case. Respondent received the e-mail. On February 5, 2009, Respondent replied to Robertson by e-mail, and advised her for the first time that the suit he filed on her behalf exposed Robertson to a deficiency judgment. Robertson responded with a request to discuss the matter, but Respondent did not respond to that request.

11. In April 2009, Respondent received letters from counsel for several of the defendants in the Robertson complaint regarding service of the Robertson complaint and various alleged defects within the complaint. Respondent did not respond to those letters, and did not amend the complaint.

12. Robertson ultimately resolved her dispute with her mortgage lender in September 2009, acting on her own behalf without Respondent's involvement in either the settlement negotiations that immediately preceded the resolution. Robertson entered into a settlement agreement dismissing her claims against her mortgage lender on October 9, 2009, again without Respondent's involvement.

13. Though Respondent ceased all communications with Robertson by early July 2009, he continued to represent Robertson until dismissing her remaining claims in April 2010, having failed to serve any of the defendants identified in the August 2008 complaint.

14. Oregon Rules of Professional Conduct rule 1.1, failure to provide a client with competent representation, is analogous to California Rules of Professional Conduct rule 3-110(A), which states that a member shall not intentionally, recklessly, or repeatedly fail to perform legal services with competence.

15. Oregon Rules of Professional Conduct rules 1.4(a), failure to comply with client's reasonable requests for information, and 1.4(b), failure to explain matters to a client to the extent reasonably necessary to allow the client to make informed decisions, are analogous to California Business and Professions Code section 6068(m), which requires all members to respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

16. Oregon Rules of Professional Conduct rule 1.15-1(c), failure to deposit fees paid in advance by a client into a lawyer trust account and withdraw them only as earned, or as expenses incurred, is not analogous to any rule found in the California Rules of Professional Conduct or the Business and Professions Code.

CONCLUSION OF LAW:

17. As a matter of law, Respondent's culpability of professional misconduct determined in the proceeding in Oregon warrants the imposition of discipline under the laws and rules binding upon Respondent in the State of California at the time Respondent committed the misconduct in the other jurisdiction, pursuant to Business and Professions Code section 6049.1, subdivision (a).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Misconduct (Std. 1.5(b)): Respondent committed multiple acts of misconduct during his representation of Robertson.

Additional Aggravating Circumstances:

Lack of Insight into Misconduct: Respondent initially argued that his conduct in the Robertson matter was not worthy of discipline, and he questioned the motives behind the Oregon State Bar's disciplinary action against him. Although the law does not require false penitence, it does require that the attorney who committed misconduct appreciate his culpability. (See *In re Aquino* (1989) 49 Cal.3d 1122, at 1133.) Though Respondent now appears to appreciate his culpability, his initial resistance is an aggravating factor.

MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

No Prior Discipline: Respondent has no prior record of discipline in the 29 years of practice preceding his misconduct. Even though the misconduct here is serious, Respondent is entitled to some weight in mitigation. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49 [attorney's practice of law for more than 17 years considered to be mitigating circumstance even the misconduct at issue is serious].)

Pre-Filing Stipulation: By entering into a pre-filing, dispositive stipulation, Respondent has spared State Bar Court time and resources. (See *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to Standards are to this source.) The Standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring

consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a Standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given Standard, in addition to the factors set forth in the specific Standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

The sanction applicable to Respondent’s misconduct is found in Standard 2.5(c). Standard 2.5(c) provides that reproof is appropriate for failing to perform legal services or properly communicate in a single client matter.

Here, Respondent’s conduct violated Rules of Professional Conduct rule 3-110(A) by failing to perform competently in a client matter. Respondent also violated Business and Professions Code section 6068(m) by failing to communicate with the client in the same client matter. Respondent’s misconduct is aggravated by multiple acts of misconduct, a lack of insight into his misconduct and the fact that Robertson was left to resolve her matter on her own, without Respondent’s involvement in her settlement. At the same time, Respondent’s misconduct is mitigated by his 29 years of discipline-free practice prior to his misconduct and his willingness to enter into a pre-filing, dispositive stipulation.

As a result of Respondent both failing to perform and failing to communicate in this matter, and the effect of the aggravating and mitigating factors, reproof is insufficient to address the purposes of attorney discipline. Therefore, the appropriate level of discipline includes a one-year suspension, stayed, with two years’ probation and standard conditions. However, the State Bar Ethics School requirement is replaced with 12 hours of continuing legal education in ethics since Respondent currently lives outside the state of California, which makes attendance at State Bar ethics school excessively burdensome. Respondent must also take and pass the Multistate Professional Responsibility Examination within one year of the effective date of the discipline. This level of discipline is appropriate given the facts of this matter, and will serve the purposes of discipline, which include the protection of the public, the courts and the legal profession, and will help to maintain high professional standards for attorneys.

This level of discipline is also consistent with prior cases. In *Layton v. State Bar* (1990) 50 Cal.3d 889, the Supreme Court ordered 30 days’ actual suspension for an attorney who repeatedly failed in the administration of an estate for which he was an executor, eventually resulting in his removal as executor. Both the attorney in *Layton* and this Respondent had nearly three decades of discipline free practice at the time of the misconduct, and both had multiple aggravating factors. Ultimately though, Respondent’s misconduct is less severe than that in *Layton*, and requires a slightly less severe level of discipline.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of July 7, 2014, the prosecution costs in this matter are \$2,992. Respondent further acknowledges that

should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

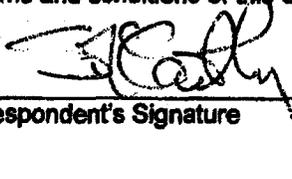
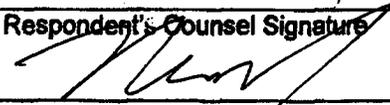
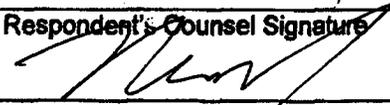
Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of the educational course(s) to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: STEVEN MICHAEL MCCARTHY	Case number(s): 14-J-02524
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>7/25/2014</u> Date	 Respondent's Signature	<u>Steven M. McCarthy</u> Print Name
<u>7/31/14</u> Date	 Respondent's Counsel Signature	<u>William Todd</u> Print Name
<u>7/31/14</u> Date	 Deputy Trial Counsel's Signature	<u>William Todd</u> Print Name

(Do not write above this line.)

In the Matter of: STEVEN MICHAEL McCARTHY	Case Number(s): 14-J-02524
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STAYED SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)

August 15, 2014
Date


GEORGE E. SCOTT, JUDGE PRO TEM
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 15, 2014, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

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:

**STEVEN MICHAEL MCCARTHY
POB 3524
DELAND, FL 32721**

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

William S. Todd, Enforcement, Los Angeles

Terrie Goldade, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 15, 2014.

Paul Barona

Paul Barona
Case Administrator
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST July 17, 2015

State Bar Court, State Bar of California,
Los Angeles

By *Charles J. A.*
Clerk

00016



THE STATE BAR
OF CALIFORNIA

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

OFFICE OF PROBATION

Terrie Goldade, Supervising Attorney (213) 765-1494

TELEPHONE: (213) 765-1000

FAX: (213) 765-1439

<http://www.calbar.ca.gov>

May Ling Fernandez: (213) 765-1035

OFFICE OF PROBATION

ADDRESS VERIFIED

January 21, 2015

January 21, 2015

Steven M. McCarthy
POB 3524
DeLand, FL 32721

BY: mlf

In re: S222035 (14-J-02524)

In the Matter of Steven M. McCarthy

Dear Steven M. McCarthy:

This reminder letter is sent to you as a courtesy and based upon information that you are not currently represented by counsel in this matter—the enforcement of your probation terms and conditions. If this is incorrect, please complete the Notice of Counsel Representation form and submit the original to the Office of Probation within five days so that future communications may be directed to your counsel.

As you know, on December 9, 2014, the Supreme Court of California filed an Order, effective January 8, 2015, suspending you from the practice of law for a period of one (1) year, staying execution and placing you on probation upon certain conditions for a period of two (2) years.

You must schedule a meeting with me to discuss the terms and conditions of your discipline within 30 days from the effective date of discipline. Make sure you read this letter including all attachments before the required meeting.

Additionally, by court order, you must take and provide proof of successful passage of the Multi-State Professional Responsibility Examination (MPRE) to the Office of Probation on or before **January 8, 2016**. You must select "California" as the jurisdiction to receive your score report during registration. It is important that you plan to take this examination well in advance of the due date so that you can re-take the examination if you do not receive a passing score. The passing scaled score is 86. The MPRE is only offered three (3) times a year, but you may not have three chances to take the MPRE by your particular deadline. Failure to provide proof of passage of this examination by the due date may result in your indefinite suspension until you provide proof that you have passed the examination. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn 8.)

In order to comply with the terms and conditions of your probation, you must report the status of your compliance, in each and every respect, by letter with any attachments, executed under penalty of perjury, and addressed to the Office of Probation. As a courtesy, the Office of Probation has prepared a Quarterly Report form for your use. Should you happen to lose your Quarterly Report form, you must submit your request for a copy in writing explaining why you could not maintain a copy for yourself.

Each of your reports must be a clear and unequivocal statement of compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

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Please read the Instructions and review the Quarterly Report carefully to determine whether you believe that it accurately reflects the required terms and conditions. If you believe there is an error, or if there are any questions, please notify me immediately. **You are responsible for timely complying with each and every term and condition whether or not it is reflected in this letter and/or the Quarterly Report form.** You are reminded that for all conditions, proof of compliance must be physically received in the Office of Probation by your due date. **Being even one day late** means that you are **NOT** in compliance.

The conditions of your probation with compliance due dates are outlined below. Please note this summary **only** reflects those conditions and compliance due dates that require submission of proof of compliance to the Office of Probation. For a thorough review of all conditions, please refer to the enclosed copy of that portion of the disciplinary order setting forth the conditions of probation.

<u>Condition</u>	<u>Deadline(s)</u>
1. Contact Probation Deputy & Schedule Required Meeting	February 7, 2015
2. Quarterly Reports	Quarterly; beginning April 10, 2015
3. Continuing Legal Education Courses	January 8, 2016 ¹
4. MPRE	January 8, 2016
5. Final Report	January 8, 2017

You are reminded that all Quarterly Reports are due **on or before the 10th day** after the end of each quarter. **If the 10th falls on a holiday or a weekend, the report must be received by the Office of Probation prior to that holiday or weekend.** Your Final Report is due on or before January 8, 2017.

You are required to report, and in no event in more than ten (10) days, to the Membership Records Office of the State Bar and the Office of Probation, all changes of information including current name, office address and telephone number, or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code. The Office of Probation will **only** send documents to your official membership records address.

Further, please be advised that the Office of Probation **does not** have the authority to extend compliance due dates or modify the terms and conditions of the discipline order. **Request for extension of time or modification of the terms and conditions** of the discipline order **must be filed with the State Bar Court Hearing Department or Review Department.** See, Rules of Procedure of the State Bar of California, rules 5.162 and 5.300, et seq. A copy of the motion must be served upon the Office of

¹ You must complete twelve (12) hours of continuing legal education in legal ethics no later than January 8, 2016. Satisfactory proof of completion must be received by the Office of Probation no later than February 7, 2016.

Steven M. McCarthy
January 21, 2015
Page 3

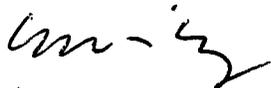
Probation. Failure to timely submit reports or any other proof of compliance may result in a non-compliance referral which may lead to the imposition of additional discipline.

Enclosed are copies of the Supreme Court Order and conditions of probation, which you have already received from the Courts or your counsel, Multi-State Professional Responsibility Examination schedule, Quarterly Report with instructions, MCLE information sheet, and Notice of Counsel Representation form.

It is recommended that you maintain a file containing all orders as well as communication between the Office of Probation and yourself. Keep your file in a convenient location so that if you have contact with the Office of Probation, any question can be quickly addressed. It is further recommended that you sign all original documents in blue so that the Office of Probation will immediately be able to ascertain whether you have provided the required original(s).

Please note that the Court has determined that the repeated need of the State Bar to actively intervene to seek compliance with disciplinary terms and conditions is inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney discipline system. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.

Sincerely,



May Ling Fernandez
Probation Deputy

/mlf
Enclosures

00003

DEC 09 2014

(State Bar Court No. 14-J-02524)

S222035

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re STEVEN MICHAEL McCARTHY on Discipline

The court orders that Steven Michael McCarthy, State Bar Number 85433, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Steven Michael McCarthy must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 15, 2014; and
2. At the expiration of the period of probation, if Steven Michael McCarthy has complied with the terms of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

Steven Michael McCarthy must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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. One-third of the costs must be paid with his membership fees for each of the years 2016, 2017, and 2018. If Steven Michael McCarthy fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

CANTIL-SAKAUYE
Chief Justice

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

day of DEC 9 2014
Clerk

00004

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one year**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) Within thirty (30) days from 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.
- (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 conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

(Do not write above this line.)

- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: **Please see section "F (2)" below.**
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**
- No MPRE recommended. Reason:
- (2) **Other Conditions:**
- As a condition of Respondent's probation and in lieu of attending State Bar Ethics School (which would require Respondent to return to California from his current home in Oregon), Respondent shall complete 12 hours of continuing legal education in legal ethics within one year of the effective date of this stipulation and provide proof, in writing, to the Office of Probation within 30 days thereafter. This requirement is separate from any MCLE requirement, and Respondent will not receive any MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar).**

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION ("MPRE")

2015 Examination Schedule and Information

This document was created as a courtesy by the State Bar of California, Office of Probation.

The State Bar of California does NOT administer the MPRE.
TO REGISTER AND FOR THE MOST RECENT INFORMATION REGARDING MPRE TEST
DATES, DEADLINES, RESOURCES, ETC., YOU MUST CONTACT:

National Conference of Bar Examiners ("NCBE")

Website: www.ncbex.org

Test Dates*	Regular Registration Deadline (\$80)*	Late Registration Deadline (\$160)*	Scores Tentatively Released by
Saturday, March 28, 2015	February 5, 2015	February 12, 2015	May 2, 2015
Saturday, August 15, 2015	June 25, 2015	July 2, 2015	September 19, 2015
Saturday, November 7, 2015	September 17, 2015	September 24, 2015	December 12, 2015

1. The MPRE fee for applications received on or before the regular receipt deadline is \$80. The MPRE fee for applications received after the regular receipt deadline but before the late receipt deadline is \$160.
2. To provide proof of successful passage of the MPRE to the Office of Probation, you **MUST**: 1) during registration, select California as the jurisdiction to receive your score report; **AND** 2) send a copy of your score release to the Office of Probation on or before your due date. Failure to comply with these requirements will delay confirming your passage of the MPRE, and it may result in an automatic suspension in probation matters or a non-compliance referral in all other matters.
3. Requests for special accommodations during the examination must be made to the National Conference of Bar Examiners in advance of the examination.

Passing scaled score 86

**Information may change at any time, please check the NCBE's website for current information.*

Revised 01/20/15

<p>IN THE MATTER OF Steven M. McCarthy</p> <p>CASE NO(s): S222035 (14-J-02524)</p> <p>Probation</p>	<p><i>(For Office of Probation Use Only)</i></p>
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QUARTERLY REPORT

First Report Due: April 10, 2015
 (for period January 8, 2015 through March 31, 2015)

Final Report Due: January 8, 2017
 (for period October 1, 2016 through January 8, 2017)

Due: **January 10, 20__** **April 10, 20__** **July 10, 20__** **October 10, 20__**
 (for period 10/1 through 12/31) (for period 01/01 through 3/31) (for period 4/1 through 6/30) (for period 7/1 through 9/30)

Make sufficient copies of this form for future use and mail reports to State Bar of California, Attn: Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Place an "X" before each of the statements below that applies to you:

Compliance with State Bar Act and Rules; and Report on SBC Proceedings

During the reporting period noted above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation; and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Or

During the reporting period above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation **EXCEPT** (please list specific violations - - do NOT list pending proceedings in this space):

_____ (attach declaration under penalty of perjury if more space is needed); and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Current Address

___ Within 10 days of any change, I reported to the Membership Records Office and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information including current name, office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code

Multi-State Professional Responsibility Examination

- ___ I have registered for the MPRE given on _____.
- ___ I have taken the MPRE given on _____ and am awaiting the results.
- ___ I passed the MPRE given on _____. A copy of my results is attached if not previously submitted.
- ___ I did not pass the MPRE given on _____ and have re-scheduled to take the examination given on _____.

Continuing Legal Education Courses

___ I have completed ___ hour(s) of California Minimum Continuing Legal Education-approved course(s) in legal ethics and have attached proof of completion if not previously submitted. I understand that the course hours required by this condition are in addition to any requirement I must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

I declare under penalty of perjury under the laws of the State of California that all of the information provided in this report is true and accurate.

Date: _____
(Date of actual signature)

Signature: _____
Steven M. McCarthy
(Please sign in blue ink)

Office of Probation
QUARTERLY REPORT INSTRUCTIONS

1. The enclosed Quarterly Report form has been tailored to reflect the conditions of your discipline that are to be reported to the Office of Probation. Please review it carefully. If you believe that it does not accurately reflect your conditions, immediately contact the Office of Probation. Note that even if the Office of Probation makes an error, **you are required to timely complete all of your ordered conditions.** The report form is provided as a courtesy only, and you are not required to use it.

2. The Office of Probation will **NOT** provide you with multiple copies of the courtesy Quarterly Report form. **YOU MUST MAKE ENOUGH COPIES TO USE FOR ALL FUTURE QUARTERLY AND FINAL REPORTS.** In the future, one additional copy **may** be provided if you make a written request with an explanation under penalty of perjury why you need such copy made.

3. For each quarter's report, mark the box for the correct reporting period and write in the correct year. Place an "X" in front of each condition that applies to your activities during each respective reporting period. Provide all required information.

4. Your report may be signed and mailed at the end of your business day on the last day of the month of each calendar quarter (i.e., March 31st, June 30th, September 30th and December 31st). **YOUR REPORT WILL BE REJECTED IF YOU DATE, SIGN, AND/OR SEND IT BEFORE THE LAST DAY OF THE LAST MONTH OF EACH CALENDAR QUARTER.**

REPORTING PERIOD	REPORT TO BE RECEIVED IN THE OFFICE OF PROBATION BY
January 1 - March 31	April 10
April 1 - June 30	July 10
July 1 - September 30	October 10
October 1 - December 31	January 10

5. Your original signed and dated report must be physically **received in the Office of Probation** on or before the tenth of January, April, July, and October. **If the tenth falls on a weekend or holiday, you must send your report so that it is received no later than the last State Bar business day before the 10th; The State Bar is not open on weekends or holidays and does not receive mail on those days.** State Bar observed holidays include among others, New Year's day, Cesar Chavez Day, Independence Day, and Columbus day. For all conditions, being **even one day late** means that you are **not** in compliance.

6. The report must contain an **original signature** in order to be filed with the Office of Probation. It is recommended that you sign each report using blue ink. Because your report must be made under penalty of perjury, you must date it the date you sign it and not pre-date it or post-date it. See, Code of Civil Procedure section 2015.5.

7. Because it is your responsibility to have an original, compliant report in to the Office of Probation by the tenth, and because some Respondents have claimed that their reports were lost in the mail, you may choose to send your reports in a manner that provides you with proof of delivery.

8. The Office of Probation files your report as of the date it is received, and **NOT** the date you mail it.

9. The Office of Probation will **NOT** contact you before and/or after each quarterly report is due. **You must calendar all of your deadlines to ensure timely receipt by the Office of Probation.**

10. Each report is to be a perpetual document and is to reflect past and/or current status or compliance.

11. Each of your reports must be a clear and unequivocal statement of your compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

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If you have any questions regarding this information, please contact May Ling Fernandez in the Office of Probation at (213)765-1035.

MCLE Information Sheet

Orders vary regarding the Minimum Continuing Legal Education (MCLE) requirements, but many orders require similar conditions. Read **your** requirements closely, and **immediately** ask your Probation Deputy if you have any questions.

1. The Office of Probation generally adheres to, and routinely consults, the MCLE information on the State Bar of California's website: <http://mcle.calbar.ca.gov/MCLE.aspx>. For example, the MCLE you submit must be provided by approved California MCLE providers; they are listed on the website.
2. The State Bar's website defines self-study and participatory. If you are required to do participatory MCLE, self-study courses will not be accepted. If you are required to do "live", you must physically attend the course(s). Unless your order states it is acceptable for you to receive MCLE for courses you teach, the Office of Probation will **NOT** credit such hours to your condition.
3. Generally, your disciplinary requirement is separate from your regular MCLE requirement, and claiming credit for MCLE already applied toward your disciplinary requirements is a violation of the Rules of Procedure of the State Bar, rule 3201.
4. Generally, you will NOT receive credit for courses completed before the effective date of your discipline.
5. Generally, you are required to provide "satisfactory evidence" to the Office of Probation. Forward the certificate you receive from any participatory and live courses you take. If you are permitted to take self-study courses, there is NOT generally "satisfactory evidence" provided by computer courses. If you listen to CDs and/or watch DVDs, **send a photocopy of each CD and/or DVD along with a statement under penalty of perjury that you listened and/or watched each CD and/or DVD.**
6. Generally, like most of the conditions, the deadline is for you to have your proof of completion of the MCLE received by the Office of Probation, NOT for you to have completed the courses.
7. If you may take courses in general legal ethics, the Office of Probation will give credit for courses approved by the State Bar of California in ethics.
8. If you are to take courses in Law Office Management, please note that Law **Office** Management may differ from Law **Practice** Management. Law **Office** Management usually covers issues involved in the day to day running of a law office, which might include calendaring, trust accounting, etc. Law **Practice** Management usually covers issues involved in growing your practice, limiting your liability, etc.
9. It can be difficult to find MCLE in Attorney Client Relations and/or Law Office Management. It can be even more difficult to find live courses in those topics. Plan ahead: begin looking for courses as quickly as possible.
10. Before you spend time and money on a course which may not be applicable to your requirement, you may send a copy of the **provider, course title and information, and course description** to the Office of Probation's Supervising Attorney, Terrie Goldade, for review via mail (to the Office of Probation), fax at (213) 765-1439, or e-mail to terrie.goldade@calbar.ca.gov.
11. Sometimes only a portion of a course may satisfy your requirement. The Office of Probation has not attended all courses by all providers, and so cannot make a reasoned determination as to what portion of a course might be applicable. Accordingly, sometimes a course may not be approved. If a course is borderline, it is more likely to be approved if it relates to your practice and the facts related to your matter. For example, if you had problems in relation to failing to supervise employees, a Law Office Management course relating in part to employee supervision is more likely to be approved for you; it is less likely to be approved for someone who has no employees and/or whose problems were related to, for example, commingling money with client trust account funds.

Like any other condition, if you fail to timely comply with each requirement, you may be referred for non-compliance. A referral can result in the imposition of discipline, with attendant costs.

Revised 06/30/11

00011

NOTICE OF COUNSEL REPRESENTATION

Respondent: Steven M. McCarthy

State Bar Case #: S222035 (14-J-02524)

Member Number: 85433

Counsel Name: _____

Firm Name: _____

Address: _____

Bar Number: _____

Phone Number: _____

Respondent Signature: _____

Date: _____

Counsel Signature: _____

Date: _____

Please complete and return this form to the Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

This document is a certificate of membership and is not to be used for any other purpose. It is the property of the State Bar of California and is loaned to you for your use only. It is to be returned to the Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

By _____
State Bar of California
Office of Probation
Los Angeles, California

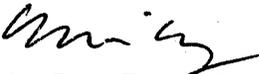


Steven M. McCarthy
June 3, 2015
Page 2

upon the Office of Probation. *The Office of Probation does not have the authority to extend compliance due dates or modify the terms and conditions of your probation.*

Please note that even if you are referred, you are **STILL REQUIRED TO TIMELY COMPLY** with all probation conditions in this matter. Additional violations may be subject to a separate non-compliance referral. If you have any questions regarding this matter, please contact me at (213) 765-1035.

Sincerely,


May Ling Fernandez
Probation Deputy

/mlf

Enclosure(s)

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Discipline Costs – 2015

Effective January 1, 2015.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2015, the adjustment is an increase of 2.47%.

For matters filed on or after January 1, 2015, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,451
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,066
Matters that Settle during first 120 days of proceeding	\$3,584
Matters that Settle before Pretrial Statement is filed	\$5,680
Matters that Settle before trial but after Pretrial Statement is filed	\$7,431
Matters that proceed to a One-day trial	\$7,431
Matters that proceed to a Multi-day trial	\$16,758
Matters that proceed to the Review Department	\$20,499

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,003
Matters that Settle during the first 120 days of proceeding	\$2,507
Matters that Settle before Pretrial Statement is filed	\$5,378
Matters that Settle before trial but after Pretrial Statement is filed	\$7,059
Matters that proceed to a One-day trial	\$7,059
Matters that proceed into a Multi-day trial	\$12,854
Matters that proceed to the Review Department	\$18,375

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,401
Rule 9.20 Proceedings	\$2,549

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$978
Each resignation	\$137
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU2010000100000I.



THE STATE BAR
OF CALIFORNIA

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

OFFICE OF PROBATION

Terrie Goldade, Supervising Attorney (213) 765-1494

TELEPHONE: (213) 765-1000

FAX: (213) 765-1439

<http://www.calbar.ca.gov>

May Ling Fernandez: (213) 765-1035

OFFICE OF PROBATION
ADDRESS VERIFIED
January 21, 2015

January 21, 2015

Steven M. McCarthy
POB 3524
DeLand, FL 32721

BY: mif

In re: S222035 (14-J-02524)

In the Matter of Steven M. McCarthy

Dear Steven M. McCarthy:

This reminder letter is sent to you as a courtesy and based upon information that you are not currently represented by counsel in this matter—the enforcement of your probation terms and conditions. If this is incorrect, please complete the Notice of Counsel Representation form and submit the original to the Office of Probation within five days so that future communications may be directed to your counsel.

As you know, on December 9, 2014, the Supreme Court of California filed an Order, effective January 8, 2015, suspending you from the practice of law for a period of one (1) year, staying execution and placing you on probation upon certain conditions for a period of two (2) years.

You must schedule a meeting with me to discuss the terms and conditions of your discipline within 30 days from the effective date of discipline. Make sure you read this letter including all attachments before the required meeting.

Additionally, by court order, you must take and provide proof of successful passage of the Multi-State Professional Responsibility Examination (MPRE) to the Office of Probation on or before **January 8, 2016**. You must select "California" as the jurisdiction to receive your score report during registration. It is important that you plan to take this examination well in advance of the due date so that you can re-take the examination if you do not receive a passing score. The passing scaled score is 86. The MPRE is only offered three (3) times a year, but you may not have three chances to take the MPRE by your particular deadline. Failure to provide proof of passage of this examination by the due date may result in your indefinite suspension until you provide proof that you have passed the examination. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn 8.)

In order to comply with the terms and conditions of your probation, you must report the status of your compliance, in each and every respect, by letter with any attachments, executed under penalty of perjury, and addressed to the Office of Probation. As a courtesy, the Office of Probation has prepared a Quarterly Report form for your use. Should you happen to lose your Quarterly Report form, you must submit your request for a copy in writing explaining why you could not maintain a copy for yourself.

Each of your reports must be a clear and unequivocal statement of compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

00017

Please read the Instructions and review the Quarterly Report carefully to determine whether you believe that it accurately reflects the required terms and conditions. If you believe there is an error, or if there are any questions, please notify me immediately. **You are responsible for timely complying with each and every term and condition whether or not it is reflected in this letter and/or the Quarterly Report form.** You are reminded that for all conditions, proof of compliance must be physically received in the Office of Probation by your due date. **Being even one day late** means that you are **NOT** in compliance.

The conditions of your probation with compliance due dates are outlined below. Please note this summary **only** reflects those conditions and compliance due dates that require submission of proof of compliance to the Office of Probation. For a thorough review of all conditions, please refer to the enclosed copy of that portion of the disciplinary order setting forth the conditions of probation.

<u>Condition</u>	<u>Deadline(s)</u>
1. Contact Probation Deputy & Schedule Required Meeting	February 7, 2015
2. Quarterly Reports	Quarterly; beginning April 10, 2015
3. Continuing Legal Education Courses	January 8, 2016 ¹
4. MPRE	January 8, 2016
5. Final Report	January 8, 2017

You are reminded that all Quarterly Reports are due on or before the 10th day after the end of each quarter. If the 10th falls on a holiday or a weekend, the report must be received by the Office of Probation **prior** to that holiday or weekend. Your Final Report is due on or before January 8, 2017.

You are required to report, and in no event in more than ten (10) days, to the Membership Records Office of the State Bar and the Office of Probation, all changes of information including current name, office address and telephone number, or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code. The Office of Probation will **only** send documents to your official membership records address.

Further, please be advised that the Office of Probation **does not** have the authority to extend compliance due dates or modify the terms and conditions of the discipline order. **Request for extension of time or modification of the terms and conditions of the discipline order must be filed with the State Bar Court Hearing Department or Review Department.** See, Rules of Procedure of the State Bar of California, rules 5.162 and 5.300, et seq. A copy of the motion must be served upon the Office of

¹ You must complete twelve (12) hours of continuing legal education in legal ethics no later than January 8, 2016. Satisfactory proof of completion must be received by the Office of Probation no later than February 7, 2016.

Steven M. McCarthy
January 21, 2015
Page 3

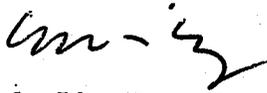
Probation. Failure to timely submit reports or any other proof of compliance may result in a non-compliance referral which may lead to the imposition of additional discipline.

Enclosed are copies of the Supreme Court Order and conditions of probation, which you have already received from the Courts or your counsel, Multi-State Professional Responsibility Examination schedule, Quarterly Report with instructions, MCLE information sheet, and Notice of Counsel Representation form.

It is recommended that you maintain a file containing all orders as well as communication between the Office of Probation and yourself. Keep your file in a convenient location so that if you have contact with the Office of Probation, any question can be quickly addressed. It is further recommended that you sign all original documents in blue so that the Office of Probation will immediately be able to ascertain whether you have provided the required original(s).

Please note that the Court has determined that the repeated need of the State Bar to actively intervene to seek compliance with disciplinary terms and conditions is inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney discipline system. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.

Sincerely,



May Ling Fernandez
Probation Deputy

/mlf
Enclosures

00019

DEC 09 2014

(State Bar Court No. 14-J-02524)

S222035

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re STEVEN MICHAEL McCARTHY on Discipline

The court orders that Steven Michael McCarthy, State Bar Number 85433, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Steven Michael McCarthy must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 15, 2014; and
2. At the expiration of the period of probation, if Steven Michael McCarthy has complied with the terms of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

Steven Michael McCarthy must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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. One-third of the costs must be paid with his membership fees for each of the years 2016, 2017, and 2018. If Steven Michael McCarthy fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

CANTIL-SAKAUYE

Chief Justice

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

____ day of DEC 9 2014 20____
Clerk

00020

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of one year.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) Within thirty (30) days from 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.
- (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 conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

(Do not write above this line.)

- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Please see section "F (2)" below.
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason:

- (2) **Other Conditions:**

As a condition of Respondent's probation and in lieu of attending State Bar Ethics School (which would require Respondent to return to California from his current home in Oregon), Respondent shall complete 12 hours of continuing legal education in legal ethics within one year of the effective date of this stipulation and provide proof, in writing, to the Office of Probation within 30 days thereafter. This requirement is separate from any MCLE requirement, and Respondent will not receive any MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar).

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION ("MPRE")

2015 Examination Schedule and Information

This document was created as a courtesy by the State Bar of California, Office of Probation.

The State Bar of California does **NOT** administer the MPRE.
**TO REGISTER AND FOR THE MOST RECENT INFORMATION REGARDING MPRE TEST
DATES, DEADLINES, RESOURCES, ETC., YOU MUST CONTACT:**

National Conference of Bar Examiners ("NCBE")

Website: www.ncbex.org

Test Dates*	Regular Registration Deadline (\$80)*	Late Registration Deadline (\$160)*	Scores Tentatively Released by
Saturday, March 28, 2015	February 5, 2015	February 12, 2015	May 2, 2015
Saturday, August 15, 2015	June 25, 2015	July 2, 2015	September 19, 2015
Saturday, November 7, 2015	September 17, 2015	September 24, 2015	December 12, 2015

1. The MPRE fee for applications received on or before the regular receipt deadline is \$80. The MPRE fee for applications received after the regular receipt deadline but before the late receipt deadline is \$160.
2. To provide proof of successful passage of the MPRE to the Office of Probation, you **MUST**: 1) during registration, select California as the jurisdiction to receive your score report; **AND** 2) send a copy of your score release to the Office of Probation on or before your due date. Failure to comply with these requirements will delay confirming your passage of the MPRE, and it may result in an automatic suspension in probation matters or a non-compliance referral in all other matters.
3. Requests for special accommodations during the examination must be made to the National Conference of Bar Examiners in advance of the examination.

Passing scaled score 86

**Information may change at any time, please check the NCBE's website for current information.*

Revised 01/20/15

<p>IN THE MATTER OF Steven M. McCarthy</p> <p>CASE NO(s): S222035 (14-J-02524)</p> <p>Probation</p>	<p><i>(For Office of Probation Use Only)</i></p>
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QUARTERLY REPORT

First Report Due: April 10, 2015
 (for period January 8, 2015 through March 31, 2015)

Final Report Due: January 8, 2017
 (for period October 1, 2016 through January 8, 2017)

Due: **January 10, 20__** **April 10, 20__** **July 10, 20__** **October 10, 20__**
 (for period 10/1 through 12/31) (for period 01/01 through 3/31) (for period 4/1 through 6/30) (for period 7/1 through 9/30)

Make sufficient copies of this form for future use and mail reports to State Bar of California, Attn: Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Place an "X" before each of the statements below that applies to you:

Compliance with State Bar Act and Rules; and Report on SBC Proceedings

During the reporting period noted above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation; and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Or

During the reporting period above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation **EXCEPT** (please list specific violations - - do NOT list pending proceedings in this space):

(attach declaration under penalty of perjury if more space is needed); and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Current Address

___ Within 10 days of any change, I reported to the Membership Records Office and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information including current name, office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code

Multi-State Professional Responsibility Examination

- ___ I have registered for the MPRE given on _____.
- ___ I have taken the MPRE given on _____ and am awaiting the results.
- ___ I passed the MPRE given on _____. A copy of my results is attached if not previously submitted.
- ___ I did not pass the MPRE given on _____ and have re-scheduled to take the examination given on _____.

Continuing Legal Education Courses

___ I have completed ___ hour(s) of California Minimum Continuing Legal Education-approved course(s) in legal ethics and have attached proof of completion if not previously submitted. I understand that the course hours required by this condition are in addition to any requirement I must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

I declare under penalty of perjury under the laws of the State of California that all of the information provided in this report is true and accurate.

Date: _____
(Date of actual signature)

Signature: _____
Steven M. McCarthy
(Please sign in blue ink)

Office of Probation
QUARTERLY REPORT INSTRUCTIONS

1. The enclosed Quarterly Report form has been tailored to reflect the conditions of your discipline that are reported to the Office of Probation. Please review it carefully. If you believe that it does not accurately reflect your conditions, immediately contact the Office of Probation. Note that even if the Office of Probation makes an error, **you are required to timely complete all of your ordered conditions**. The report form is provided as a courtesy only, and you are not required to use it.

2. The Office of Probation will **NOT** provide you with multiple copies of the courtesy Quarterly Report form. **YOU MUST MAKE ENOUGH COPIES TO USE FOR ALL FUTURE QUARTERLY AND FINAL REPORTS.** In the future, one additional copy **may** be provided if you make a written request with an explanation under penalty of perjury why you need such copy made.

3. For each quarter's report, mark the box for the correct reporting period and write in the correct year. Place an "X" in front of each condition that applies to your activities during each respective reporting period. Provide all required information.

4. Your report may be signed and mailed at the end of your business day on the last day of the month of each calendar quarter (i.e., March 31st, June 30th, September 30th and December 31st). **YOUR REPORT WILL BE REJECTED IF YOU DATE, SIGN, AND/OR SEND IT BEFORE THE LAST DAY OF THE LAST MONTH OF EACH CALENDAR QUARTER.**

REPORTING PERIOD	REPORT TO BE RECEIVED IN THE OFFICE OF PROBATION BY
January 1 - March 31	April 10
April 1 - June 30	July 10
July 1 - September 30	October 10
October 1 - December 31	January 10

5. Your original signed and dated report must be physically **received in the Office of Probation** on or before the tenth of January, April, July, and October. If the tenth falls on a weekend or holiday, you must send your report so that it is received no later than the last State Bar business day **before** the 10th; The State Bar is not open on weekends or holidays and does not receive mail on those days. State Bar observed holidays include among others, New Year's day, Cesar Chavez Day, Independence Day, and Columbus day. For all conditions, being **even one day late** means that you are **not** in compliance.

6. The report must contain an **original signature** in order to be filed with the Office of Probation. It is recommended that you sign each report using blue ink. Because your report must be made under penalty of perjury, you must date it the date you sign it and not pre-date it or post-date it. See, Code of Civil Procedure section 2015.5.

7. Because it is your responsibility to have an original, compliant report in to the Office of Probation by the tenth, and because some Respondents have claimed that their reports were lost in the mail, you may choose to send your reports in a manner that provides you with proof of delivery.

8. The Office of Probation files your report as of the date it is received, and **NOT** the date you mail it.

9. The Office of Probation will **NOT** contact you before and/or after each quarterly report is due. You must calendar all of your deadlines to ensure timely receipt by the Office of Probation.

10. Each report is to be a perpetual document and is to reflect past and/or current status or compliance.

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11. Each of your reports must be a clear and unequivocal statement of your compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

If you have any questions regarding this information, please contact May Ling Fernandez in the Office of Probation at (213)765-1035.

MCLE Information Sheet

Orders vary regarding the Minimum Continuing Legal Education (MCLE) requirements, but many orders require similar conditions. Read your requirements closely, and **immediately** ask your Probation Deputy if you have any questions.

1. The Office of Probation generally adheres to, and routinely consults, the MCLE information on the State Bar of California's website: <http://mcle.calbar.ca.gov/MCLE.aspx>. For example, the MCLE you submit must be provided by approved California MCLE providers; they are listed on the website.
2. The State Bar's website defines self-study and participatory. If you are required to do participatory MCLE, self-study courses will not be accepted. If you are required to do "live", you must physically attend the course(s). Unless your order states it is acceptable for you to receive MCLE for courses you teach, the Office of Probation will **NOT** credit such hours to your condition.
3. Generally, your disciplinary requirement is separate from your regular MCLE requirement, and claiming credit for MCLE already applied toward your disciplinary requirements is a violation of the Rules of Procedure of the State Bar, rule 3201.
4. Generally, you will **NOT** receive credit for courses completed before the effective date of your discipline.
5. Generally, you are required to provide "satisfactory evidence" to the Office of Probation. Forward the certificate you receive from any participatory and live courses you take. If you are permitted to take self-study courses, there is **NOT** generally "satisfactory evidence" provided by computer courses. If you listen to CDs and/or watch DVDs, **send a photocopy of each CD and/or DVD along with a statement under penalty of perjury that you listened and/or watched each CD and/or DVD.**
6. Generally, like most of the conditions, the deadline is for you to have your proof of completion of the MCLE received by the Office of Probation, **NOT** for you to have completed the courses.
7. If you may take courses in general legal ethics, the Office of Probation will give credit for courses approved by the State Bar of California in ethics.
8. If you are to take courses in Law Office Management, please note that Law **Office** Management may differ from Law **Practice** Management. Law **Office** Management usually covers issues involved in the day to day running of a law office, which might include calendaring, trust accounting, etc. Law **Practice** Management usually covers issues involved in growing your practice, limiting your liability, etc.
9. It can be difficult to find MCLE in Attorney Client Relations and/or Law Office Management. It can be even more difficult to find live courses in those topics. Plan ahead: begin looking for courses as quickly as possible.
10. Before you spend time and money on a course which may not be applicable to your requirement, you may send a copy of the provider, course title and information, and course description to the Office of Probation's Supervising Attorney, Terrie Goldade, for review via mail (to the Office of Probation), fax at (213) 765-1439, or e-mail to terrie.goldade@calbar.ca.gov.
11. Sometimes only a portion of a course may satisfy your requirement. The Office of Probation has not attended all courses by all providers, and so cannot make a reasoned determination as to what portion of a course might be applicable. Accordingly, sometimes a course may not be approved. If a course is borderline, it is more likely to be approved if it relates to your practice and the facts related to your matter. For example, if you had problems in relation to failing to supervise employees, a Law Office Management course relating *in part* to employee supervision is more likely to be approved for you; it is less likely to be approved for someone who has no employees and/or whose problems were related to, for example, commingling money with client trust account funds.

Like any other condition, if you fail to timely comply with each requirement, you may be referred for non-compliance. A referral can result in the imposition of discipline, with attendant costs.

Revised 06/30/11

00027

NOTICE OF COUNSEL REPRESENTATION

Respondent: Steven M. McCarthy

State Bar Case #: S222035 (14-J-02524)

Member Number: 85433

Counsel Name: _____

Firm Name: _____

Address: _____

Bar Number: _____

Phone Number: _____

Respondent Signature: _____

Date: _____

Counsel Signature: _____

Date: _____

*Product of state: Please print name of respondent and
do not write in the space provided for the
respondent's name and address to the state*

Please complete and return this form to the Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

I, _____
do hereby certify that the above information is true and correct.

Secretary of State



Fernandez, May

From: Fernandez, May
Sent: Wednesday, June 03, 2015 3:18 PM
To: 'Steve@McCarthyLegal.com'
Subject: Non-Compliance with your Probation
Attachments: Non-Compliance Letter.pdf

Please see the attached document.

May Ling Fernandez | Probation Deputy
Office of Probation
The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017
213.765.1035 | May.Fernandez@calbar.ca.gov

This message may contain confidential information that may also be privileged. Unless you are the intended recipient or are authorized to receive information for the intended recipient, you may not use, copy, or disclose the message in whole or in part. If you have received this message in error, please advise the sender by reply e-mail and delete all copies of the message. Thank you.



THE STATE BAR
OF CALIFORNIA

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

OFFICE OF PROBATION

Terrie Goldade, Supervising Attorney (213) 765-1494

TELEPHONE: (213) 765-1000

FAX: (213) 765-1439

http://www.calbar.ca.gov

May Ling Fernandez: (213) 765-1035

May.Fernandez@calbar.ca.gov

OFFICE OF PROBATION
ADDRESS VERIFIED

June 3, 2015

June 3, 2015

BY: _____

mlf

Steven M. McCarthy
POB 3524
DeLand, FL 32721

Sent via email and mail.

In re: S222035 (14-J-02524)

In the Matter of Steven M. McCarthy

Dear Steven M. McCarthy:

On January 21, 2015, this office sent to you a letter (copy enclosed) for the purpose of reminding you of the terms and conditions of your probation imposed by the Supreme Court which became effective January 8, 2015.

The following chart summarizes your compliance and non-compliance with the conditions of your probation to date:

Condition	Due Date	Completion Date	Comments
Schedule Req'd. Mtg.	2/7/15		Please contact me immediately to schedule required meeting.
Hold Required Mtg.	As Scheduled		
Quarterly Reports	4/10/15		Please file immediately.

You are not in compliance with the terms and conditions of your probation, and you may face a non-compliance referral which may result in the imposition of additional discipline and attendant costs (see attached). Even if you contact the Office of Probation, a referral may still be prepared. The Office of Probation will not send any further reminder letters regarding the aforementioned non-compliance or any future compliance due dates or lack of receipt of compliance documentation.

Please be reminded that LATE completion, submission, or filing of proof/documents, does not mean you are in compliance. You will never be in compliance because being even one day late means that you are not in compliance with the terms and conditions of your probation.

If for any reason, you cannot *timely* comply with the terms and conditions of the discipline imposed, and to avoid a non-compliance referral, *you must* file a motion with the State Bar Court. See rules 5.162 and 5.300, et seq., Rules of Procedure of the State Bar of California. A copy of the motion must be served

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Steven M. McCarthy

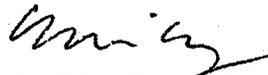
June 3, 2015

Page 2

upon the Office of Probation. *The Office of Probation does not have the authority to extend compliance due dates or modify the terms and conditions of your probation.*

Please note that even if you are referred, you are **STILL REQUIRED TO TIMELY COMPLY** with all probation conditions in this matter. Additional violations may be subject to a separate non-compliance referral. If you have any questions regarding this matter, please contact me at (213) 765-1035.

Sincerely,



May Ling Fernández
Probation Deputy

/mlf

Enclosure(s)

00032

Discipline Costs - 2015

Effective January 1, 2015.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2015, the adjustment is an increase of 2.47%.

For matters filed on or after January 1, 2015, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,451
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,066
Matters that Settle during first 120 days of proceeding	\$3,584
Matters that Settle before Pretrial Statement is filed	\$5,680
Matters that Settle before trial but after Pretrial Statement is filed	\$7,431
Matters that proceed to a One-day trial	\$7,431
Matters that proceed to a Multi-day trial	\$16,758
Matters that proceed to the Review Department	\$20,499

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,003
Matters that Settle during the first 120 days of proceeding	\$2,507
Matters that Settle before Pretrial Statement is filed	\$5,378
Matters that Settle before trial but after Pretrial Statement is filed	\$7,059
Matters that proceed to a One-day trial	\$7,059
Matters that proceed into a Multi-day trial	\$12,854
Matters that proceed to the Review Department	\$18,375

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,401
Rule 9.20 Proceedings	\$2,549

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$978
Each resignation	\$137
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU201000O1000001.

Please read the Instructions and review the Quarterly Report carefully to determine whether you believe that it accurately reflects the required terms and conditions. If you believe there is an error, or if there are any questions, please notify me immediately. **You are responsible for timely complying with each and every term and condition whether or not it is reflected in this letter and/or the Quarterly Report form.** You are reminded that for all conditions, proof of compliance must be physically received in the Office of Probation by your due date. **Being even one day late means that you are NOT in compliance.**

The conditions of your probation with compliance due dates are outlined below. Please note this summary **only** reflects those conditions and compliance due dates that require submission of proof of compliance to the Office of Probation. For a thorough review of all conditions, please refer to the enclosed copy of that portion of the disciplinary order setting forth the conditions of probation.

<u>Condition</u>	<u>Deadline(s)</u>
1. Contact Probation Deputy & Schedule Required Meeting	February 7, 2015
2. Quarterly Reports	Quarterly; beginning April 10, 2015
3. Continuing Legal Education Courses	January 8, 2016 ¹
4. MPRE	January 8, 2016
5. Final Report	January 8, 2017

You are reminded that all Quarterly Reports are due on or before the 10th day after the end of each quarter. **If the 10th falls on a holiday or a weekend, the report must be received by the Office of Probation prior to that holiday or weekend.** Your Final Report is due on or before January 8, 2017.

You are required to report, and in no event in more than ten (10) days, to the Membership Records Office of the State Bar and the Office of Probation, all changes of information including current name, office address and telephone number, or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code. The Office of Probation will **only** send documents to your official membership records address.

Further, please be advised that the Office of Probation **does not** have the authority to extend compliance due dates or modify the terms and conditions of the discipline order. **Request for extension of time or modification of the terms and conditions of the discipline order must be filed with the State Bar Court Hearing Department or Review Department.** See, Rules of Procedure of the State Bar of California, rules 5.162 and 5.300, et seq. A copy of the motion must be served upon the Office of

¹ You must complete twelve (12) hours of continuing legal education in legal ethics no later than January 8, 2016. Satisfactory proof of completion must be received by the Office of Probation no later than February 7, 2016.

Steven M. McCarthy

January 21, 2015

Page 3

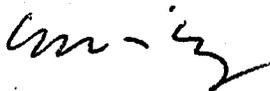
Probation. Failure to timely submit reports or any other proof of compliance may result in a non-compliance referral which may lead to the imposition of additional discipline.

Enclosed are copies of the Supreme Court Order and conditions of probation, which you have already received from the Courts or your counsel, Multi-State Professional Responsibility Examination schedule, Quarterly Report with instructions, MCLE information sheet, and Notice of Counsel Representation form.

It is recommended that you maintain a file containing all orders as well as communication between the Office of Probation and yourself. Keep your file in a convenient location so that if you have contact with the Office of Probation, any question can be quickly addressed. It is further recommended that you sign all original documents in blue so that the Office of Probation will immediately be able to ascertain whether you have provided the required original(s).

Please note that the Court has determined that the repeated need of the State Bar to actively intervene to seek compliance with disciplinary terms and conditions is inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney discipline system. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.

Sincerely,



May Ling Fernandez
Probation Deputy

/mlf

Enclosures

00036

DEC 09 2014

(State Bar Court No. 14-J-02524)

Frank A. McGuire Clerk

S222035

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re STEVEN MICHAEL McCARTHY on Discipline

The court orders that Steven Michael McCarthy, State Bar Number 85433, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Steven Michael McCarthy must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 15, 2014; and
2. At the expiration of the period of probation, if Steven Michael McCarthy has complied with the terms of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

Steven Michael McCarthy must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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. One-third of the costs must be paid with his membership fees for each of the years 2016, 2017, and 2018. If Steven Michael McCarthy fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

CANTIL-SAKAUYE
Chief Justice

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

____ day of DEC 9 2014
Clerk

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D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of one year.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(3) Within thirty (30) days from 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.

(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 conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

(5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Please see section "F (2)" below.
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.

No MPRE recommended. Reason:

- (2) **Other Conditions:**

As a condition of Respondent's probation and in lieu of attending State Bar Ethics School (which would require Respondent to return to California from his current home in Oregon), Respondent shall complete 12 hours of continuing legal education in legal ethics within one year of the effective date of this stipulation and provide proof, in writing, to the Office of Probation within 30 days thereafter. This requirement is separate from any MCLE requirement, and Respondent will not receive any MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar).

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION ("MPRE")

2015 Examination Schedule and Information

This document was created as a courtesy by the State Bar of California, Office of Probation.

The State Bar of California does NOT administer the MPRE.
**TO REGISTER AND FOR THE MOST RECENT INFORMATION REGARDING MPRE TEST
DATES, DEADLINES, RESOURCES, ETC., YOU MUST CONTACT:**

National Conference of Bar Examiners ("NCBE")

Website: www.ncbex.org

Test Dates*	Regular Registration Deadline (\$80)*	Late Registration Deadline (\$160)*	Scores Tentatively Released by
Saturday, March 28, 2015	February 5, 2015	February 12, 2015	May 2, 2015
Saturday, August 15, 2015	June 25, 2015	July 2, 2015	September 19, 2015
Saturday, November 7, 2015	September 17, 2015	September 24, 2015	December 12, 2015

1. The MPRE fee for applications received on or before the regular receipt deadline is \$80. The MPRE fee for applications received after the regular receipt deadline but before the late receipt deadline is \$160.
2. To provide proof of successful passage of the MPRE to the Office of Probation, you **MUST**: 1) during registration, select California as the jurisdiction to receive your score report; **AND** 2) send a copy of your score release to the Office of Probation *on or before your due date*. Failure to comply with these requirements will delay confirming your passage of the MPRE, and it may result in an automatic suspension in probation matters or a non-compliance referral in all other matters.
3. Requests for special accommodations during the examination must be made to the National Conference of Bar Examiners in advance of the examination.

Passing scaled score 86

**Information may change at any time, please check the NCBE's website for current information.*

Revised 01/20/15

00040

<p>IN THE MATTER OF Steven M. McCarthy</p> <p>CASE NO(s): S222035 (14-J-02524)</p> <p>Probation</p>	<p><i>(For Office of Probation Use Only)</i></p>
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QUARTERLY REPORT

First Report Due: April 10, 2015
 (for period January 8, 2015 through March 31, 2015)

Final Report Due: January 8, 2017
 (for period October 1, 2016 through January 8, 2017)

Due: **January 10, 20__** **April 10, 20__** **July 10, 20__** **October 10, 20__**
 (for period 10/1 through 12/31) (for period 01/01 through 3/31) (for period 4/1 through 6/30) (for period 7/1 through 9/30)

Make sufficient copies of this form for future use and mail reports to State Bar of California, Attn: Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Place an "X" before each of the statements below that applies to you:

Compliance with State Bar Act and Rules; and Report on SBC Proceedings

During the reporting period noted above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation; and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Or

During the reporting period above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation **EXCEPT** (please list specific violations - - do NOT list pending proceedings in this space):

_____ (attach declaration under penalty of perjury if more space is needed); and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court; or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Current Address

___ Within 10 days of any change, I reported to the Membership Records Office and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information including current name, office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code

Multi-State Professional Responsibility Examination

- ___ I have registered for the MPRE given on _____.
- ___ I have taken the MPRE given on _____ and am awaiting the results.
- ___ I passed the MPRE given on _____. A copy of my results is attached if not previously submitted.
- ___ I did not pass the MPRE given on _____ and have re-scheduled to take the examination given on _____.

Continuing Legal Education Courses

___ I have completed ___ hour(s) of California Minimum Continuing Legal Education-approved course(s) in legal ethics and have attached proof of completion if not previously submitted. I understand that the course hours required by this condition are in addition to any requirement I must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

I declare under penalty of perjury under the laws of the State of California that all of the information provided in this report is true and accurate.

Date: _____
(Date of actual signature)

Signature: _____
Steven M. McCarthy
(Please sign in blue ink)

QUARTERLY REPORT INSTRUCTIONS

1. The enclosed Quarterly Report form has been tailored to reflect the conditions of your discipline that are to be reported to the Office of Probation. Please review it carefully. If you believe that it does not accurately reflect your conditions, immediately contact the Office of Probation. Note that even if the Office of Probation makes an error, **you are required to timely complete all of your ordered conditions.** The report form is provided as a courtesy only, and you are not required to use it.
2. The Office of Probation will **NOT** provide you with multiple copies of the courtesy Quarterly Report form. **YOU MUST MAKE ENOUGH COPIES TO USE FOR ALL FUTURE QUARTERLY AND FINAL REPORTS.** In the future, one additional copy **may** be provided if you make a written request with an explanation under penalty of perjury why you need such copy made.
3. For each quarter's report, mark the box for the correct reporting period and write in the correct year. Place an "X" in front of each condition that applies to your activities during each respective reporting period. Provide all required information.
4. Your report may be signed and mailed at the end of your business day on the last day of the month of each calendar quarter (i.e., March 31st, June 30th, September 30th and December 31st). **YOUR REPORT WILL BE REJECTED IF YOU DATE, SIGN, AND/OR SEND IT BEFORE THE LAST DAY OF THE LAST MONTH OF EACH CALENDAR QUARTER.**

REPORTING PERIOD	REPORT TO BE RECEIVED IN THE OFFICE OF PROBATION BY
January 1 - March 31	April 10
April 1 - June 30	July 10
July 1 - September 30	October 10
October 1 - December 31	January 10

5. Your original signed and dated report must be physically **received in the Office of Probation** on or before the tenth of January, April, July, and October. If the tenth falls on a weekend or holiday, you must send your report so that it is received no later than the last State Bar business day **before the 10th**; The State Bar is not open on weekends or holidays and does not receive mail on those days. State Bar observed holidays include among others, New Year's day, Cesar Chavez Day, Independence Day, and Columbus day. For all conditions, being **even one day late** means that you are **not** in compliance.
6. The report must contain an **original signature** in order to be filed with the Office of Probation. It is recommended that you sign each report using blue ink. Because your report must be made under penalty of perjury, you must date it the date you sign it and not pre-date it or post-date it. See, Code of Civil Procedure section 2015.5.
7. Because it is your responsibility to have an original, compliant report in to the Office of Probation by the tenth, and because some Respondents have claimed that their reports were lost in the mail, you may choose to send your reports in a manner that provides you with proof of delivery.
8. The Office of Probation files your report as of the date it is received, and **NOT** the date you mail it.
9. The Office of Probation will **NOT** contact you before and/or after each quarterly report is due. You must calendar all of your deadlines to ensure timely receipt by the Office of Probation.
10. Each report is to be a perpetual document and is to reflect past and/or current status or compliance.
11. Each of your reports must be a clear and unequivocal statement of your compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

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If you have any questions regarding this information, please contact May Ling Fernandez in the Office of Probation at (213)765-1035.

MCLE Information Sheet

Orders vary regarding the Minimum Continuing Legal Education (MCLE) requirements, but many orders require similar conditions. Read your requirements closely, and **immediately** ask your Probation Deputy if you have any questions.

1. The Office of Probation generally adheres to, and routinely consults, the MCLE information on the State Bar of California's website: <http://mcle.calbar.ca.gov/MCLE.aspx>. For example, the MCLE you submit must be provided by approved California MCLE providers; they are listed on the website.
2. The State Bar's website defines self-study and participatory. If you are required to do participatory MCLE, self-study courses will not be accepted. If you are required to do "live", you must physically attend the course(s). Unless your order states it is acceptable for you to receive MCLE for courses you teach, the Office of Probation will **NOT** credit such hours to your condition.
3. Generally, your disciplinary requirement is separate from your regular MCLE requirement, and claiming credit for MCLE already applied toward your disciplinary requirements is a violation of the Rules of Procedure of the State Bar, rule 3201.
4. Generally, you will **NOT** receive credit for courses completed before the effective date of your discipline.
5. Generally, you are required to provide "satisfactory evidence" to the Office of Probation. Forward the certificate you receive from any participatory and live courses you take. If you are permitted to take self-study courses, there is **NOT** generally "satisfactory evidence" provided by computer courses. If you listen to CDs and/or watch DVDs, send a photocopy of each CD and/or DVD along with a statement under penalty of perjury that you listened and/or watched each CD and/or DVD.
6. Generally, like most of the conditions, the deadline is for you to have your proof of completion of the MCLE received by the Office of Probation, **NOT** for you to have completed the courses.
7. If you may take courses in general legal ethics, the Office of Probation will give credit for courses approved by the State Bar of California in ethics.
8. If you are to take courses in Law Office Management, please note that Law Office Management may differ from Law Practice Management. Law Office Management usually covers issues involved in the day to day running of a law office, which might include calendaring, trust accounting, etc. Law Practice Management usually covers issues involved in growing your practice, limiting your liability, etc.
9. It can be difficult to find MCLE in Attorney Client Relations and/or Law Office Management. It can be even more difficult to find live courses in those topics. Plan ahead: begin looking for courses as quickly as possible.
10. Before you spend time and money on a course which may not be applicable to your requirement, you may send a copy of the provider, course title and information, and course description to the Office of Probation's Supervising Attorney, Terrie Goldade, for review via mail (to the Office of Probation), fax at (213) 765-1439, or e-mail to terrie.goldade@calbar.ca.gov.
11. Sometimes only a portion of a course may satisfy your requirement. The Office of Probation has not attended all courses by all providers, and so cannot make a reasoned determination as to what portion of a course might be applicable. Accordingly, sometimes a course may not be approved. If a course is borderline, it is more likely to be approved if it relates to your practice and the facts related to your matter. For example, if you had problems in relation to failing to supervise employees, a Law Office Management course relating in part to employee supervision is more likely to be approved for you; it is less likely to be approved for someone who has no employees and/or whose problems were related to, for example, commingling money with client trust account funds.

Like any other condition, if you fail to timely comply with each requirement, you may be referred for non-compliance. A referral can result in the imposition of discipline, with attendant costs.

Revised 06/30/11

00044

NOTICE OF COUNSEL REPRESENTATION

Respondent: Steven M. McCarthy

State Bar Case #: S222035 (14-J-02524)

Member Number: 85433

Counsel Name: _____

Firm Name: _____

Address: _____

Bar Number: _____

Phone Number: _____

Respondent Signature: _____

Date: _____

Counsel Signature: _____

Date: _____

Please complete and return this form to the Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Fernandez, May

From: Microsoft Outlook
To: 'Steve@McCarthyLegal.com'
Sent: Wednesday, June 03, 2015 3:18 PM
Subject: Relayed: Non-Compliance with your Probation

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

'Steve@McCarthyLegal.com' (Steve@McCarthyLegal.com) <<mailto:Steve@McCarthyLegal.com>>

Subject: Non-Compliance with your Probation

Fernandez, May

From: Mail Delivery System <MAILER-DAEMON@p01c12o148.mxlogic.net>
Sent: Wednesday, June 03, 2015 7:20 PM
To: Fernandez, May
Subject: Warning: could not send message for past 4 hours
Attachments: ATT00001.bt

=====
THIS IS A WARNING MESSAGE ONLY
YOU DO NOT NEED TO RESEND YOUR MESSAGE
=====

A temporary error occurred while delivering to the following address(es):

<steve@mccarthylegal.com>: 451 All MX servers are unavailable for domain mccarthylegal.com

I will continue trying to send the message until it is delivered or expires.

ATT00001.txt

Included is a copy of the message header:

Received: from unknown [67.97.90.154] (EHLO SFCAS01.calsb.org)
by p01c12o148.mxlogic.net(mx1_mta-8.4.0-1) over TLS secured channel
with ESMTTP id efc7f655.0.580528.00-311.1650515.p01c12o148.mxlogic.net
(envelope-from <may.fernandez@calbar.ca.gov>);
wed, 03 Jun 2015 16:17:34 -0600 (MDT)
X-MXL-Hash: 556f7cfe6fd2390c-0633b4b0802c235b785bf9f4141d130158483794
Received: from SFMAIL05.calsb.org ([fe80::615f:744d:4b5:67be]) by
SFCAS01.calsb.org ([fe80::f05e:89d5:a272:b081%17]) with mapi id
14.03.0210.002; wed, 3 Jun 2015 15:17:33 -0700
From: "Fernandez, May" <May.Fernandez@calbar.ca.gov>
To: "'Steve@McCarthyLegal.com'" <Steve@McCarthyLegal.com>
Subject: Non-Compliance with your Probation
Thread-Topic: Non-Compliance with your Probation
Thread-Index: AdCeSwpx4eiN9DNQQDSAR6NBVeLlrQ==
Disposition-Notification-To: "Fernandez, May" <May.Fernandez@calbar.ca.gov>
Return-Receipt-To: <May.Fernandez@calbar.ca.gov>
Date: wed, 3 Jun 2015 22:17:33 +0000
Message-ID: <302A4449378E684385DBA605A6E2AB5E217A159E@SFMAIL05.calsb.org>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
x-originating-ip: [172.15.16.45]
Content-Type: multipart/mixed;
boundary="_004_302A4449378E684385DBA605A6E2AB5E217A159ESFMAIL05calsbor_"
MIME-Version: 1.0

Fernandez, May

From: Mail Delivery System <MAILER-DAEMON@p01c12o148.mxlogic.net>
Sent: Monday, June 08, 2015 3:20 PM
To: Fernandez, May
Subject: Mail delivery failed
Attachments: ATT00001.txt

This message was created automatically by mail delivery software.

A message that you have sent could not be delivered to one or more recipients. This is a permanent error. The following address(es) failed:

<steve@mccarthylegal.com>: Message was undeliverable and has expired



THE STATE BAR
OF CALIFORNIA

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

OFFICE OF PROBATION

Terrie Goldade, Supervising Attorney (213) 765-1494

TELEPHONE: (213) 765-1000

FAX: (213) 765-1439

<http://www.calbar.ca.gov>

FACSIMILE COVER SHEET

DATE: June 10, 2015

TO: Steven M. McCarthy

FAX No.: (386) 736-8668

FROM: May Ling Fernandez
Office of Probation, State Bar of California

PHONE No.: (213) 765-1035

Number of pages (including cover sheet): 16

RE: Non-Compliance with your Probation

The following letter was mailed and emailed to you on June 3, 2015. You are receiving this fax because the Office of Probation received an email message that the email was undeliverable. Please update your contact information with the Membership Records Office immediately. You are reminded that you are required to update the Membership Records Office within ten (10) days of any change in your contact information including "other address for State Bar purposes".

Will follow in U.S. Mail

Will NOT follow in U.S. Mail
Unless requested to Probation

FACSIMILE PRIVACY NOTICE: *This facsimile transmission with its contents may contain sensitive, confidential and/or legally privileged information. This communication is solely for the use of the intended recipient(s) named above. Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.*

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THE STATE BAR OF CALIFORNIA

OFFICE OF PROBATION

Terrie Goldade, Supervising Attorney (213) 765-1494

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

TELEPHONE: (213) 765-1000

FAX: (213) 765-1439

http://www.calbar.ca.gov

May Ling Fernandez: (213) 765-1035
May.Fernandez@calbar.ca.gov

OFFICE OF PROBATION ADDRESS VERIFIED

June 3, 2015

June 3, 2015

BY: mlf

Steven M. McCarthy
POB 3524
DeLand, FL 32721

Sent via email and mail.

In re: S222035 (14-J-02524)

In the Matter of Steven M. McCarthy

Dear Steven M. McCarthy:

On January 21, 2015, this office sent to you a letter (copy enclosed) for the purpose of reminding you of the terms and conditions of your probation imposed by the Supreme Court which became effective January 8, 2015.

The following chart summarizes your compliance and non-compliance with the conditions of your probation to date:

Table with 4 columns: Condition, Due Date, Completion Date, Comments. Rows include Schedule Req'd. Mtg., Hold Required Mtg., and Quarterly Reports.

You are not in compliance with the terms and conditions of your probation, and you may face a non-compliance referral which may result in the imposition of additional discipline and attendant costs (see attached). Even if you contact the Office of Probation, a referral may still be prepared. The Office of Probation will not send any further reminder letters regarding the aforementioned non-compliance or any future compliance due dates or lack of receipt of compliance documentation.

Please be reminded that LATE completion, submission, or filing of proof/documents, does not mean you are in compliance. You will never be in compliance because being even one day late means that you are not in compliance with the terms and conditions of your probation.

If for any reason, you cannot timely comply with the terms and conditions of the discipline imposed, and to avoid a non-compliance referral, you must file a motion with the State Bar Court. See rules 5.162 and 5.300, et seq., Rules of Procedure of the State Bar of California. A copy of the motion must be served

Steven M. McCarthy

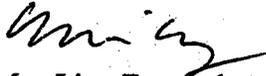
June 3, 2015

Page 2

upon the Office of Probation. *The Office of Probation does not have the authority to extend compliance due dates or modify the terms and conditions of your probation.*

Please note that even if you are referred, you are **STILL REQUIRED TO TIMELY COMPLY** with all probation conditions in this matter. Additional violations may be subject to a separate non-compliance referral. If you have any questions regarding this matter, please contact me at (213) 765-1035.

Sincerely,



May Ling Fernandez
Probation Deputy

/mlf

Enclosure(s)

00053

Discipline Costs - 2015

Effective January 1, 2015.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2015, the adjustment is an increase of 2.47%.

For matters filed on or after January 1, 2015, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,451
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,066
Matters that Settle during first 120 days of proceeding	\$3,584
Matters that Settle before Pretrial Statement is filed	\$5,680
Matters that Settle before trial but after Pretrial Statement is filed	\$7,431
Matters that proceed to a One-day trial	\$7,431
Matters that proceed to a Multi-day trial	\$16,758
Matters that proceed to the Review Department	\$20,499

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,003
Matters that Settle during the first 120 days of proceeding	\$2,507
Matters that Settle before Pretrial Statement is filed	\$5,378
Matters that Settle before trial but after Pretrial Statement is filed	\$7,059
Matters that proceed to a One-day trial	\$7,059
Matters that proceed into a Multi-day trial	\$12,854
Matters that proceed to the Review Department	\$18,375

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,401
Rule 9.20 Proceedings	\$2,549

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$978
Each resignation	\$137
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUJRA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU201000O100000I.



THE STATE BAR
OF CALIFORNIA

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

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FAX: (213) 765-1439

<http://www.calbar.ca.gov>

May Ling Fernandez: (213) 765-1035

OFFICE OF PROBATION

ADDRESS VERIFIED

January 21, 2015

January 21, 2015

Steven M. McCarthy
POB 3524
DeLand, FL 32721

BY: _____

mif

In re: S222035 (14-J-02524)

In the Matter of Steven M. McCarthy

Dear Steven M. McCarthy:

This reminder letter is sent to you as a courtesy and based upon information that you are not currently represented by counsel in this matter—the enforcement of your probation terms and conditions. If this is incorrect, please complete the Notice of Counsel Representation form and submit the original to the Office of Probation within five days so that future communications may be directed to your counsel.

As you know, on December 9, 2014, the Supreme Court of California filed an Order, effective January 8, 2015, suspending you from the practice of law for a period of one (1) year, staying execution and placing you on probation upon certain conditions for a period of two (2) years.

You must schedule a meeting with me to discuss the terms and conditions of your discipline within 30 days from the effective date of discipline. Make sure you read this letter including all attachments before the required meeting.

Additionally, by court order, you must take and provide proof of successful passage of the Multi-State Professional Responsibility Examination (MPRE) to the Office of Probation on or before January 8, 2016. You must select "California" as the jurisdiction to receive your score report during registration. It is important that you plan to take this examination well in advance of the due date so that you can re-take the examination if you do not receive a passing score. The passing scaled score is 86. The MPRE is only offered three (3) times a year, but you may not have three chances to take the MPRE by your particular deadline. Failure to provide proof of passage of this examination by the due date may result in your indefinite suspension until you provide proof that you have passed the examination. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn 8.)

In order to comply with the terms and conditions of your probation, you must report the status of your compliance, in each and every respect, by letter with any attachments, executed under penalty of perjury, and addressed to the Office of Probation. As a courtesy, the Office of Probation has prepared a Quarterly Report form for your use. Should you happen to lose your Quarterly Report form, you must submit your request for a copy in writing explaining why you could not maintain a copy for yourself.

Each of your reports must be a clear and unequivocal statement of compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

00055

Please read the Instructions and review the Quarterly Report carefully to determine whether you believe that it accurately reflects the required terms and conditions. If you believe there is an error, or if there are any questions, please notify me immediately. **You are responsible for timely complying with each and every term and condition whether or not it is reflected in this letter and/or the Quarterly Report form.** You are reminded that for all conditions, proof of compliance must be physically received in the Office of Probation by your due date. **Being even one day late means that you are NOT in compliance.**

The conditions of your probation with compliance due dates are outlined below. Please note this summary **only** reflects those conditions and compliance due dates that require submission of proof of compliance to the Office of Probation. For a thorough review of all conditions, please refer to the enclosed copy of that portion of the disciplinary order setting forth the conditions of probation.

<u>Condition</u>	<u>Deadline(s)</u>
1. Contact Probation Deputy & Schedule Required Meeting	February 7, 2015
2. Quarterly Reports	Quarterly; beginning April 10, 2015
3. Continuing Legal Education Courses	January 8, 2016 ¹
4. MPRE	January 8, 2016
5. Final Report	January 8, 2017

You are reminded that all Quarterly Reports are due on or before the 10th day after the end of each quarter. **If the 10th falls on a holiday or a weekend, the report must be received by the Office of Probation prior to that holiday or weekend.** Your Final Report is due on or before January 8, 2017.

You are required to report, and in no event in more than ten (10) days, to the Membership Records Office of the State Bar and the Office of Probation, all changes of information including current name, office address and telephone number, or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code. The Office of Probation will **only** send documents to your official membership records address.

Further, please be advised that the Office of Probation does not have the authority to extend compliance due dates or modify the terms and conditions of the discipline order. **Request for extension of time or modification of the terms and conditions of the discipline order must be filed with the State Bar Court Hearing Department or Review Department.** See, Rules of Procedure of the State Bar of California, rules 5.162 and 5.300, et seq. A copy of the motion must be served upon the Office of

¹ You must complete twelve (12) hours of continuing legal education in legal ethics no later than January 8, 2016. Satisfactory proof of completion must be received by the Office of Probation no later than February 7, 2016.

Steven M. McCarthy
January 21, 2015
Page 3

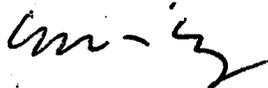
Probation. Failure to timely submit reports or any other proof of compliance may result in a non-compliance referral which may lead to the imposition of additional discipline.

Enclosed are copies of the Supreme Court Order and conditions of probation, which you have already received from the Courts or your counsel, Multi-State Professional Responsibility Examination schedule, Quarterly Report with instructions, MCLE information sheet, and Notice of Counsel Representation form.

It is recommended that you maintain a file containing all orders as well as communication between the Office of Probation and yourself. Keep your file in a convenient location so that if you have contact with the Office of Probation, any question can be quickly addressed. It is further recommended that you sign all original documents in blue so that the Office of Probation will immediately be able to ascertain whether you have provided the required original(s).

Please note that the Court has determined that the repeated need of the State Bar to actively intervene to seek compliance with disciplinary terms and conditions is inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney discipline system. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.

Sincerely,



**May Ling Fernandez
Probation Deputy**

/mlf
Enclosures

00057

DEC 09 2014

(State Bar Court No. 14-J-02524)

S222035

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re STEVEN MICHAEL McCARTHY on Discipline

The court orders that Steven Michael McCarthy, State Bar Number 85433, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Steven Michael McCarthy must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 15, 2014; and
2. At the expiration of the period of probation, if Steven Michael McCarthy has complied with the terms of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

Steven Michael McCarthy must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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. One-third of the costs must be paid with his membership fees for each of the years 2016, 2017, and 2018. If Steven Michael McCarthy fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

CANTIL-SAKAUYE
Chief Justice

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

____ day of DEC 9 2014
Clerk

00058

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of one year.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(3) Within thirty (30) days from 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.

(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 conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

(5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

(Do not write above this line.)

- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Please see section "F (2)" below.
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.
- No MPRE recommended. Reason:
- (2) **Other Conditions:**
- As a condition of Respondent's probation and in lieu of attending State Bar Ethics School (which would require Respondent to return to California from his current home in Oregon), Respondent shall complete 12 hours of continuing legal education in legal ethics within one year of the effective date of this stipulation and provide proof, in writing, to the Office of Probation within 30 days thereafter. This requirement is separate from any MCLE requirement, and Respondent will not receive any MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar).**

00060

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION ("MPRE")

2015 Examination Schedule and Information

This document was created as a courtesy by the State Bar of California, Office of Probation.

**The State Bar of California does NOT administer the MPRE.
TO REGISTER AND FOR THE MOST RECENT INFORMATION REGARDING MPRE TEST
DATES, DEADLINES, RESOURCES, ETC., YOU MUST CONTACT:**

National Conference of Bar Examiners ("NCBE")

Website: www.ncbex.org

Test Dates*	Regular Registration Deadline (\$80)*	Late Registration Deadline (\$160)*	Scores Tentatively Released by
Saturday, March 28, 2015	February 5, 2015	February 12, 2015	May 2, 2015
Saturday, August 15, 2015	June 25, 2015	July 2, 2015	September 19, 2015
Saturday, November 7, 2015	September 17, 2015	September 24, 2015	December 12, 2015

1. The MPRE fee for applications received on or before the regular receipt deadline is \$80. The MPRE fee for applications received after the regular receipt deadline but before the late receipt deadline is \$160.
2. To provide proof of successful passage of the MPRE to the Office of Probation, you **MUST**: 1) during registration, select California as the jurisdiction to receive your score report; **AND** 2) send a copy of your score release to the Office of Probation **on or before your due date**. Failure to comply with these requirements will delay confirming your passage of the MPRE, and it may result in an automatic suspension in probation matters or a non-compliance referral in all other matters.
3. Requests for special accommodations during the examination must be made to the National Conference of Bar Examiners in advance of the examination.

Passing scaled score 86

**Information may change at any time, please check the NCBE's website for current information.*

Revised 01/20/15

<p>IN THE MATTER OF Steven M. McCarthy</p> <p>CASE NO(s): S222035 (14-J-02524)</p> <p>Probation</p>	<p><i>(For Office of Probation Use Only)</i></p>
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QUARTERLY REPORT

First Report Due: April 10, 2015
 (for period January 8, 2015 through March 31, 2015)

Final Report Due: January 8, 2017
 (for period October 1, 2016 through January 8, 2017)

Due: **January 10, 20__** **April 10, 20__** **July 10, 20__** **October 10, 20__**
 (for period 10/1 through 12/31) (for period 01/01 through 3/31) (for period 4/1 through 6/30) (for period 7/1 through 9/30)

Make sufficient copies of this form for future use and mail reports to State Bar of California, Attn: Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Place an "X" before each of the statements below that applies to you:

Compliance with State Bar Act and Rules; and Report on SBC Proceedings

During the reporting period noted above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation; and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Or

During the reporting period above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation **EXCEPT** (please list specific violations - - do NOT list pending proceedings in this space):

(attach declaration under penalty of perjury if more space is needed); and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court; or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Current Address

___ Within 10 days of any change, I reported to the Membership Records Office and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information including current name, office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code

Multi-State Professional Responsibility Examination

- ___ I have registered for the MPRE given on _____.
- ___ I have taken the MPRE given on _____ and am awaiting the results.
- ___ I passed the MPRE given on _____. A copy of my results is attached if not previously submitted.
- ___ I did not pass the MPRE given on _____ and have re-scheduled to take the examination given on _____.

Continuing Legal Education Courses

___ I have completed ___ hour(s) of California Minimum Continuing Legal Education-approved course(s) in legal ethics and have attached proof of completion if not previously submitted. I understand that the course hours required by this condition are in addition to any requirement I must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

I declare under penalty of perjury under the laws of the State of California that all of the information provided in this report is true and accurate.

Date: _____
(Date of actual signature)

Signature: _____
Steven M. McCarthy
(Please sign in blue ink)

Office of Probation
QUARTERLY REPORT INSTRUCTIONS

1. The enclosed Quarterly Report form has been tailored to reflect the conditions of your discipline that are reported to the Office of Probation. Please review it carefully. If you believe that it does not accurately reflect your conditions, immediately contact the Office of Probation. Note that even if the Office of Probation makes an error, **you are required to timely complete all of your ordered conditions**. The report form is provided as a courtesy only, and you are not required to use it.
2. The Office of Probation will **NOT** provide you with multiple copies of the courtesy Quarterly Report form. **YOU MUST MAKE ENOUGH COPIES TO USE FOR ALL FUTURE QUARTERLY AND FINAL REPORTS.** In the future, one additional copy **may** be provided if you make a written request with an explanation under penalty of perjury why you need such copy made.
3. For each quarter's report, mark the box for the correct reporting period and write in the correct year. Place an "X" in front of each condition that applies to your activities during each respective reporting period. Provide all required information.
4. Your report may be signed and mailed at the end of your business day on the last day of the month of each calendar quarter (i.e., March 31st, June 30th, September 30th and December 31st). **YOUR REPORT WILL BE REJECTED IF YOU DATE, SIGN, AND/OR SEND IT BEFORE THE LAST DAY OF THE LAST MONTH OF EACH CALENDAR QUARTER.**

REPORTING PERIOD	REPORT TO BE RECEIVED IN THE OFFICE OF PROBATION BY
January 1 - March 31	April 10
April 1 - June 30	July 10
July 1 - September 30	October 10
October 1 - December 31	January 10

5. Your original signed and dated report must be physically **received in the Office of Probation** on or before the tenth of January, April, July, and October. If the tenth falls on a weekend or holiday, you must send your report so that it is received no later than the last State Bar business day **before the 10th**; The State Bar is not open on weekends or holidays and does not receive mail on those days. State Bar observed holidays include among others, New Year's day, Cesar Chavez Day, Independence Day, and Columbus day. For all conditions, being **even one day late** means that you are **not** in compliance.
6. The report must contain an **original signature** in order to be filed with the Office of Probation. It is recommended that you sign each report using blue ink. Because your report must be made under penalty of perjury, you must date it the date you sign it and not pre-date it or post-date it. See, Code of Civil Procedure section 2015.5.
7. Because it is your responsibility to have an original, compliant report in to the Office of Probation by the tenth, and because some Respondents have claimed that their reports were lost in the mail, you may choose to send your reports in a manner that provides you with proof of delivery.
8. The Office of Probation files your report as of the date it is received, and **NOT** the date you mail it.
9. The Office of Probation will **NOT** contact you before and/or after each quarterly report is due. You must calendar all of your deadlines to ensure timely receipt by the Office of Probation.
10. Each report is to be a perpetual document and is to reflect past and/or current status or compliance.
11. Each of your reports must be a clear and unequivocal statement of your compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

00064

If you have any questions regarding this information, please contact May Ling Fernandez in the Office of Probation at (213)765-1035.

MCLE Information Sheet

Orders vary regarding the Minimum Continuing Legal Education (MCLE) requirements, but many orders require similar conditions. Read your requirements closely, and **immediately** ask your Probation Deputy if you have any questions.

1. The Office of Probation generally adheres to, and routinely consults, the MCLE information on the State Bar of California's website: <http://mcle.calbar.ca.gov/MCLE.aspx>. For example, the MCLE you submit must be provided by approved California MCLE providers; they are listed on the website.
2. The State Bar's website defines self-study and participatory. If you are required to do participatory MCLE, self-study courses will not be accepted. If you are required to do "live", you must physically attend the course(s). Unless your order states it is acceptable for you to receive MCLE for courses you teach, the Office of Probation will **NOT** credit such hours to your condition.
3. Generally, your disciplinary requirement is separate from your regular MCLE requirement, and claiming credit for MCLE already applied toward your disciplinary requirements is a violation of the Rules of Procedure of the State Bar, rule 3201.
4. Generally, you will **NOT** receive credit for courses completed before the effective date of your discipline.
5. Generally, you are required to provide "satisfactory evidence" to the Office of Probation. Forward the certificate you receive from any participatory and live courses you take. If you are permitted to take self-study courses, there is **NOT** generally "satisfactory evidence" provided by computer courses. If you listen to CDs and/or watch DVDs, send a photocopy of each CD and/or DVD along with a statement under penalty of perjury that you listened and/or watched each CD and/or DVD.
6. Generally, like most of the conditions, the deadline is for you to have your proof of completion of the MCLE received by the Office of Probation, **NOT** for you to have completed the courses.
7. If you may take courses in general legal ethics, the Office of Probation will give credit for courses approved by the State Bar of California in ethics.
8. If you are to take courses in Law Office Management, please note that Law Office Management may differ from Law Practice Management. Law Office Management usually covers issues involved in the day to day running of a law office, which might include calendaring, trust accounting, etc. Law Practice Management usually covers issues involved in growing your practice, limiting your liability, etc.
9. It can be difficult to find MCLE in Attorney Client Relations and/or Law Office Management. It can be even more difficult to find live courses in those topics. Plan ahead: begin looking for courses as quickly as possible.
10. Before you spend time and money on a course which may not be applicable to your requirement, you may send a copy of the provider, course title and information, and course description to the Office of Probation's Supervising Attorney, Terrie Goldade, for review via mail (to the Office of Probation), fax at (213) 765-1439, or e-mail to terrie.goldade@calbar.ca.gov.
11. Sometimes only a portion of a course may satisfy your requirement. The Office of Probation has not attended all courses by all providers, and so cannot make a reasoned determination as to what portion of a course might be applicable. Accordingly, sometimes a course may not be approved. If a course is borderline, it is more likely to be approved if it relates to your practice and the facts related to your matter. For example, if you had problems in relation to failing to supervise employees, a Law Office Management course relating in part to employee supervision is more likely to be approved for you; it is less likely to be approved for someone who has no employees and/or whose problems were related to, for example, commingling money with client trust account funds.

Like any other condition, if you fail to timely comply with each requirement, you may be referred for non-compliance. A referral can result in the imposition of discipline, with attendant costs.

Revised 06/30/11

00065

NOTICE OF COUNSEL REPRESENTATION

Respondent: Steven M. McCarthy

State Bar Case #: S222035 (14-J-02524)

Member Number: 85433

Counsel Name: _____

Firm Name: _____

Address: _____

Bar Number: _____

Phone Number: _____

Respondent Signature: _____

Date: _____

Counsel Signature: _____

Date: _____

Please complete and return this form to the Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

MODE = MEMORY TRANSMISSION

START=JUN-10 16:49

END=JUN-10 17:14

FILE NO.=774

STN NO.	COMM.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	503	89-13867368668	000/016	00:05:24

-STATE BAR OF CALIF. -

***** UF-8000 v2 ***** -LOS ANGELES - ***** - 213 765 1318- *****



THE STATE BAR OF CALIFORNIA

OFFICE OF PROBATION

Terrie Goldade, Supervising Attorney (213) 765-1494

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

TELEPHONE: (213) 765-1000

FAX: (213) 765-1439

http://www.calbar.ca.gov

FACSIMILE COVER SHEET

DATE: June 10, 2015

TO: Steven M. McCarthy

FAX No.: (386) 736-8668

FROM: May Ling Fernandez
Office of Probation, State Bar of California

PHONE No.: (213) 765-1035

Number of pages (including cover sheet): 16

RE: Non-Compliance with your Probation

The following letter was mailed and emailed to you on June 3, 2015. You are receiving this fax because the Office of Probation received an email message that the email was undeliverable. Please update your contact information with the Membership Records Office immediately. You are reminded that you are required to update the Membership Records Office within ten (10) days of any change in your contact information including "other address for State Bar purposes".

Will follow in U.S. Mail

Will NOT follow in U.S. Mail
Unless requested to Probation

FACSIMILE PRIVACY NOTICE: This facsimile transmission with its contents may contain sensitive, confidential and/or legally privileged information. This communication is solely for the use of the intended recipient(s) named above. Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

Fernandez, May

From: Fernandez, May
Sent: Wednesday, June 10, 2015 5:43 PM
To: 'Caractacus@aol.com'
Subject: Non-Compliance with your probation
Attachments: Non-Compliance Letter.pdf

Dear Mr. McCarthy,

I tried to email and fax the attached letter to the contact information you have provided to the State Bar's Membership Records Office. I received a message stating that the email was undeliverable and the fax could not be transmitted. Please update your contact information with the Membership Records Office immediately. You are reminded that you are required to update the Membership Records Office within ten (10) days of any change in your contact information.

Sincerely,

—
May Ling Fernandez | Probation Deputy
Office of Probation
The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017
213.765.1035 | May.Fernandez@calbar.ca.gov

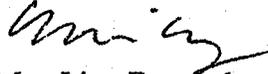
This message may contain confidential information that may also be privileged. Unless you are the intended recipient or are authorized to receive information for the intended recipient, you may not use, copy, or disclose the message in whole or in part. If you have received this message in error, please advise the sender by reply e-mail and delete all copies of the message. Thank you.

Steven M. McCarthy
June 3, 2015
Page 2

upon the Office of Probation. *The Office of Probation does not have the authority to extend compliance due dates or modify the terms and conditions of your probation.*

Please note that even if you are referred, you are **STILL REQUIRED TO TIMELY COMPLY** with all probation conditions in this matter. Additional violations may be subject to a separate non-compliance referral. If you have any questions regarding this matter, please contact me at (213) 765-1035.

Sincerely,


May Ling Fernandez
Probation Deputy

/mlf

Enclosure(s)

00071

Discipline Costs - 2015

Effective January 1, 2015.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2015, the adjustment is an increase of 2.47%.

For matters filed on or after January 1, 2015, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,451
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,066
Matters that Settle during first 120 days of proceeding	\$3,584
Matters that Settle before Pretrial Statement is filed	\$5,680
Matters that Settle before trial but after Pretrial Statement is filed	\$7,431
Matters that proceed to a One-day trial	\$7,431
Matters that proceed to a Multi-day trial	\$16,758
Matters that proceed to the Review Department	\$20,499

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,003
Matters that Settle during the first 120 days of proceeding	\$2,507
Matters that Settle before Pretrial Statement is filed	\$5,378
Matters that Settle before trial but after Pretrial Statement is filed	\$7,059
Matters that proceed to a One-day trial	\$7,059
Matters that proceed into a Multi-day trial	\$12,854
Matters that proceed to the Review Department	\$18,375

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,401
Rule 9.20 Proceedings	\$2,549

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$978
Each resignation	\$137
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU201000O100000I.

Please read the Instructions and review the Quarterly Report carefully to determine whether you believe that it accurately reflects the required terms and conditions. If you believe there is an error, or if there are any questions, please notify me immediately. **You are responsible for timely complying with each and every term and condition whether or not it is reflected in this letter and/or the Quarterly Report form.** You are reminded that for all conditions, proof of compliance must be physically received in the Office of Probation by your due date. **Being even one day late means that you are NOT in compliance.**

The conditions of your probation with compliance due dates are outlined below. Please note this summary **only** reflects those conditions and compliance due dates that require submission of proof of compliance to the Office of Probation. For a thorough review of all conditions, please refer to the enclosed copy of that portion of the disciplinary order setting forth the conditions of probation.

<u>Condition</u>	<u>Deadline(s)</u>
1. Contact Probation Deputy & Schedule Required Meeting	February 7, 2015
2. Quarterly Reports	Quarterly; beginning April 10, 2015
3. Continuing Legal Education Courses	January 8, 2016 ¹
4. MPRE	January 8, 2016
5. Final Report	January 8, 2017

You are reminded that all Quarterly Reports are due on or before the 10th day after the end of each quarter. If the 10th falls on a holiday or a weekend, the report must be received by the Office of Probation **prior** to that holiday or weekend. Your Final Report is due on or before January 8, 2017.

You are required to report, and in no event in more than ten (10) days, to the Membership Records Office of the State Bar and the Office of Probation, all changes of information including current name, office address and telephone number, or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code. The Office of Probation will **only** send documents to your official membership records address.

Further, please be advised that the Office of Probation **does not** have the authority to extend compliance due dates or modify the terms and conditions of the discipline order. **Request for extension of time or modification of the terms and conditions of the discipline order must be filed with the State Bar Court Hearing Department or Review Department.** See, Rules of Procedure of the State Bar of California, rules 5.162 and 5.300, et seq. A copy of the motion must be served upon the Office of

¹ You must complete twelve (12) hours of continuing legal education in legal ethics no later than January 8, 2016. Satisfactory proof of completion must be received by the Office of Probation no later than February 7, 2016.

Steven M. McCarthy
January 21, 2015
Page 3

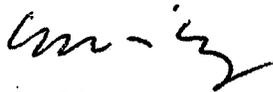
Probation. Failure to timely submit reports or any other proof of compliance may result in a non-compliance referral which may lead to the imposition of additional discipline.

Enclosed are copies of the Supreme Court Order and conditions of probation, which you have already received from the Courts or your counsel, Multi-State Professional Responsibility Examination schedule, Quarterly Report with instructions, MCLE information sheet, and Notice of Counsel Representation form.

It is recommended that you maintain a file containing all orders as well as communication between the Office of Probation and yourself. Keep your file in a convenient location so that if you have contact with the Office of Probation, any question can be quickly addressed. It is further recommended that you sign all original documents in blue so that the Office of Probation will immediately be able to ascertain whether you have provided the required original(s).

Please note that the Court has determined that the repeated need of the State Bar to actively intervene to seek compliance with disciplinary terms and conditions is inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney discipline system. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.

Sincerely,



May Ling Fernandez
Probation Deputy

/mlf
Enclosures

00075

DEC 09 2014

(State Bar Court No. 14-J-02524)

S222035

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re STEVEN MICHAEL McCARTHY on Discipline

The court orders that Steven Michael McCarthy, State Bar Number 85433, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Steven Michael McCarthy must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 15, 2014; and
2. At the expiration of the period of probation, if Steven Michael McCarthy has complied with the terms of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

Steven Michael McCarthy must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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. One-third of the costs must be paid with his membership fees for each of the years 2016, 2017, and 2018. If Steven Michael McCarthy fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

CANTIL-SAKAUYE
Chief Justice

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

day of DEC 9 2014
Clerk

00076

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of one year.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(3) Within thirty (30) days from 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.

(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 conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

(5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Please see section "F (2)" below.
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.
- No MPRE recommended. Reason:
- (2) **Other Conditions:**
- As a condition of Respondent's probation and in lieu of attending State Bar Ethics School (which would require Respondent to return to California from his current home in Oregon), Respondent shall complete 12 hours of continuing legal education in legal ethics within one year of the effective date of this stipulation and provide proof, in writing, to the Office of Probation within 30 days thereafter. This requirement is separate from any MCLE requirement, and Respondent will not receive any MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar).

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION ("MPRE")

2015 Examination Schedule and Information

This document was created as a courtesy by the State Bar of California, Office of Probation.

The State Bar of California does NOT administer the MPRE.
**TO REGISTER AND FOR THE MOST RECENT INFORMATION REGARDING MPRE TEST
DATES, DEADLINES, RESOURCES, ETC., YOU MUST CONTACT:**

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3. Requests for special accommodations during the examination must be made to the National Conference of Bar Examiners in advance of the examination.

Passing scaled score 86

**Information may change at any time, please check the NCBE's web site for current information.*

Revised 01/20/15

00079

IN THE MATTER OF
Steven M. McCarthy

(For Office of Probation Use Only)

CASE NO(s): S222035 (14-J-02524)

Probation

QUARTERLY REPORT

First Report Due: April 10, 2015
(for period January 8, 2015 through March 31, 2015)

Final Report Due: January 8, 2017
(for period October 1, 2016 through January 8, 2017)

Due: January 10, 20__ April 10, 20__ July 10, 20__ October 10, 20__
(for period 10/1 through 12/31) (for period 01/01 through 3/31) (for period 4/1 through 6/30) (for period 7/1 through 9/30)

Make sufficient copies of this form for future use and mail reports to State Bar of California, Attn: Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Place an "X" before each of the statements below that applies to you:

Compliance with State Bar Act and Rules; and Report on SBC Proceedings

During the reporting period noted above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation; and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Or

During the reporting period above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation **EXCEPT** (please list specific violations - - do NOT list pending proceedings in this space):

(attach declaration under penalty of perjury if more space is needed); and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

00080

Current Address

___ Within 10 days of any change, I reported to the Membership Records Office and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information including current name, office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code

Multi-State Professional Responsibility Examination

- ___ I have registered for the MPRE given on _____.
- ___ I have taken the MPRE given on _____ and am awaiting the results.
- ___ I passed the MPRE given on _____. A copy of my results is attached if not previously submitted.
- ___ I did not pass the MPRE given on _____ and have re-scheduled to take the examination given on _____.

Continuing Legal Education Courses

___ I have completed ___ hour(s) of California Minimum Continuing Legal Education-approved course(s) in legal ethics and have attached proof of completion if not previously submitted. I understand that the course hours required by this condition are in addition to any requirement I must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

I declare under penalty of perjury under the laws of the State of California that all of the information provided in this report is true and accurate.

Date: _____
(Date of actual signature)

Signature: _____
Steven M. McCarthy
(Please sign in blue ink)

QUARTERLY REPORT INSTRUCTIONS

1. The enclosed Quarterly Report form has been tailored to reflect the conditions of your discipline that are to be reported to the Office of Probation. Please review it carefully. If you believe that it does not accurately reflect your conditions, immediately contact the Office of Probation. Note that even if the Office of Probation makes an error, **you are required to timely complete all of your ordered conditions.** The report form is provided as a courtesy only, and you are not required to use it.
2. The Office of Probation will **NOT** provide you with multiple copies of the courtesy Quarterly Report form. **YOU MUST MAKE ENOUGH COPIES TO USE FOR ALL FUTURE QUARTERLY AND FINAL REPORTS.** In the future, one additional copy may be provided if you make a written request with an explanation under penalty of perjury why you need such copy made.
3. For each quarter's report, mark the box for the correct reporting period and write in the correct year. Place an "X" in front of each condition that applies to your activities during each respective reporting period. Provide all required information.
4. Your report may be signed and mailed at the end of your business day on the last day of the month of each calendar quarter (i.e., March 31st, June 30th, September 30th and December 31st). **YOUR REPORT WILL BE REJECTED IF YOU DATE, SIGN, AND/OR SEND IT BEFORE THE LAST DAY OF THE LAST MONTH OF EACH CALENDAR QUARTER.**

REPORTING PERIOD	REPORT TO BE RECEIVED IN THE OFFICE OF PROBATION BY
January 1 - March 31	April 10
April 1 - June 30	July 10
July 1 - September 30	October 10
October 1 - December 31	January 10

5. Your original signed and dated report must be physically **received in the Office of Probation** on or before the tenth of January, April, July, and October. If the tenth falls on a weekend or holiday, you must send your report so that it is received no later than the last State Bar business day before the 10th; The State Bar is not open on weekends or holidays and does not receive mail on those days. State Bar observed holidays include among others, New Year's day, Cesar Chavez Day, Independence Day, and Columbus day. For all conditions, being **even one day late** means that you are **not** in compliance.
6. The report must contain an **original signature** in order to be filed with the Office of Probation. It is recommended that you sign each report using blue ink. Because your report must be made under penalty of perjury, you must date it the date you sign it and not pre-date it or post-date it. See, Code of Civil Procedure section 2015.5.
7. Because it is your responsibility to have an original, compliant report in to the Office of Probation by the tenth, and because some Respondents have claimed that their reports were lost in the mail, you may choose to send your reports in a manner that provides you with proof of delivery.
8. The Office of Probation files your report as of the date it is received, and **NOT** the date you mail it.
9. The Office of Probation will **NOT** contact you before and/or after each quarterly report is due. You must calendar all of your deadlines to ensure timely receipt by the Office of Probation.
10. Each report is to be a perpetual document and is to reflect past and/or current status or compliance.
11. Each of your reports must be a clear and unequivocal statement of your compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

If you have any questions regarding this information, please contact May Ling Fernandez in the Office of Probation at (213)765-1035.

00082

MCLE Information Sheet

Orders vary regarding the Minimum Continuing Legal Education (MCLE) requirements, but many orders require similar conditions. Read your requirements closely, and **immediately** ask your Probation Deputy if you have any questions.

1. The Office of Probation generally adheres to, and routinely consults, the MCLE information on the State Bar of California's website: <http://mcle.calbar.ca.gov/MCLE.aspx>. For example, the MCLE you submit must be provided by approved California MCLE providers; they are listed on the website.
2. The State Bar's website defines self-study and participatory. If you are required to do participatory MCLE, self-study courses will not be accepted. If you are required to do "live", you must physically attend the course(s). Unless your order states it is acceptable for you to receive MCLE for courses you teach, the Office of Probation will **NOT** credit such hours to your condition.
3. Generally, your disciplinary requirement is separate from your regular MCLE requirement, and claiming credit for MCLE already applied toward your disciplinary requirements is a violation of the Rules of Procedure of the State Bar, rule 3201.
4. Generally, you will **NOT** receive credit for courses completed before the effective date of your discipline.
5. Generally, you are required to provide "satisfactory evidence" to the Office of Probation. Forward the certificate you receive from any participatory and live courses you take. If you are permitted to take self-study courses, there is **NOT** generally "satisfactory evidence" provided by computer courses. If you listen to CDs and/or watch DVDs, send a **photocopy of each CD and/or DVD along with a statement under penalty of perjury that you listened and/or watched each CD and/or DVD.**
6. Generally, like most of the conditions, the deadline is for you to have your proof of completion of the MCLE received by the Office of Probation, **NOT** for you to have completed the courses.
7. If you may take courses in general legal ethics, the Office of Probation will give credit for courses approved by the State Bar of California in ethics.
8. If you are to take courses in Law Office Management, please note that Law **Office** Management may differ from Law **Practice** Management. Law **Office** Management usually covers issues involved in the day to day running of a law office, which might include calendaring, trust accounting, etc. Law **Practice** Management usually covers issues involved in growing your practice, limiting your liability, etc.
9. It can be difficult to find MCLE in Attorney Client Relations and/or Law Office Management. It can be even more difficult to find live courses in those topics. Plan ahead: begin looking for courses as quickly as possible.
10. Before you spend time and money on a course which may not be applicable to your requirement, you may send a copy of the provider, course title and information, and course description to the Office of Probation's Supervising Attorney, Terrie Goldade, for review via mail (to the Office of Probation), fax at (213) 765-1439, or e-mail to terrie.goldade@calbar.ca.gov.
11. Sometimes only a portion of a course may satisfy your requirement. The Office of Probation has not attended all courses by all providers, and so cannot make a reasoned determination as to what portion of a course might be applicable. Accordingly, sometimes a course may not be approved. If a course is borderline, it is more likely to be approved if it relates to your practice and the facts related to your matter. For example, if you had problems in relation to failing to supervise employees, a Law Office Management course relating in part to employee supervision is more likely to be approved for you; it is less likely to be approved for someone who has no employees and/or whose problems were related to, for example, commingling money with client trust account funds.

Like any other condition, if you fail to timely comply with each requirement, you may be referred for non-compliance. A referral can result in the imposition of discipline, with attendant costs.

Revised 06/30/11

00083

NOTICE OF COUNSEL REPRESENTATION

Respondent: Steven M. McCarthy

State Bar Case #: S222035 (14-J-02524)

Member Number: 85433

Counsel Name: _____

Firm Name: _____

Address: _____

Bar Number: _____

Phone Number: _____

Respondent Signature: _____

Date: _____

Counsel Signature: _____

Date: _____

Please complete and return this form to the Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Fernandez, May

From: Microsoft Outlook
To: 'Caractacus@aol.com'
Sent: Wednesday, June 10, 2015 5:44 PM
Subject: Relayed: Non-Compliance with your probation

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

'Caractacus@aol.com' (Caractacus@aol.com) <<mailto:Caractacus@aol.com>>

Subject: Non-Compliance with your probation

Fernandez, May

From: Caractacus@aol.com
Sent: Wednesday, June 10, 2015 6:40 PM
To: Fernandez, May
Subject: Re: Non-Compliance with your probation

Dear Ms. Fernandez,

Please provide (1) your facsimile transmission record for the representation of facsimile transmissions and/or attempts directed to me, including the date, time, sending number, and result; and (2) and the letter you hereinbelow falsely represent as attached to your email.

Please pay particular attention to the details of this demand, as it is both (1) very simple and (2) is responding to the allegations of a state agency and you, a state agent.

Thank you in advance for your anticipated cooperation.

Steve McCarthy

In a message dated 6/10/2015 8:43:51 P.M. Eastern Daylight Time, May.Fernandez@calbar.ca.gov writes:

Dear Mr. McCarthy,

I tried to email and fax the attached letter to the contact information you have provided to the State Bar's Membership Records Office. I received a message stating that the email was undeliverable and the fax could not be transmitted. Please update your contact information with the Membership Records Office immediately. You are reminded that you are required to update the Membership Records Office within ten (10) days of any change in your contact information.

Sincerely,

—
May Ling Fernandez | Probation Deputy

Office of Probation

The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017

213.765.1035 | May.Fernandez@calbar.ca.gov

This message may contain confidential information that may also be privileged. Unless you are the intended recipient or are authorized to receive information for the intended recipient, you may not use, copy, or disclose the message in whole or in part. If you have received this message in error, please advise the sender by reply e-mail and delete all copies of the message. Thank you.

Fernandez, May

From: Fernandez, May
Sent: Thursday, June 11, 2015 6:39 PM
To: 'Caractacus@aol.com'
Cc: 'Steve@McCarthyLegal.com'
Subject: RE: Non-Compliance with your probation
Attachments: Non-Compliance Letter.pdf; Mail Delivery System Notification Emails.pdf; Fax Transmission Record of 6.10.15.pdf; 6.10.15 Email and Relay Confirmation.pdf

Dear Mr. McCarthy,

On January 21, 2015, I mailed you a letter reminding you of the conditions of your probation as ordered by the Supreme Court in its Order filed December 9, 2014 (a copy of this letter was included as an enclosure to the letter mailed June 3, 2015 and which is attached to this email). The January 21, 2015 letter was mailed to the address you had on record with the Membership Records Office as of that date, and which is still displayed as the address on record with the Membership Records Office as of today (see below for a screenshot from today of your membership webpage containing said information). The January 21, 2015 letter has not been returned to the Office of Probation as undeliverable.

On June 3, 2015, I mailed and emailed you a letter regarding your non-compliance with your probation. The letter was mailed to the address on record with the Membership Records Office as of the date of mailing, which is the same address to which the January 21, 2015 letter was mailed and the address on record with the Membership Records Office as of today. The June 3, 2015 letter which was mailed was not returned as undeliverable. As a courtesy, I also emailed the June 3, 2015 letter to the email address you had on record with the Membership Records Office as of June 3, 2015, "Steve@McCarthyLegal.com". As of today, the email address you have on record with the Membership Records Office is still "Steve@McCarthyLegal.com". On June 3, 2015, I received a "Mail Delivery System" email notifying me that the servers for the domain "mccarthylegal.com" were unavailable and that the mail system would continue to try to send my message until it is delivered or expires. On June 8, 2015, I received a second email from the Mail Delivery System notifying me that the message to "Steve@McCarthyLegal.com" was undeliverable and had expired. The notification emails from "Mail Delivery System" are attached to this email.

Because my courtesy email to you on June 3, 2015 was unsuccessful, I faxed you a copy of the June 3, 2015 letter on June 10, 2015 to the fax number you had on record with the Membership Records Office as of that date. As of today, the fax number you have on record with the Membership Records Office is still "(386) 736-8668". The fax machine dialed your fax number multiple times and was unsuccessful in transmitting the June 3, 2015 letter. Attached you will find a copy of the fax transmission record.

Since my email and my fax were both unsuccessful, I emailed you a courtesy copy of the June 3, 2015 letter to your private email address on June 10, 2015. You claim that I falsely represented having attached the June 3, 2015 letter to my email. I checked my outgoing messages and the letter was included as an attachment to the June 10, 2015 email. Copies of my outgoing message and relay confirmation are attached to this email; please note the highlighted portion of the outgoing message showing an attachment titled "Non-Compliance Letter.pdf". As a courtesy, I am once again attaching a copy of the June 3, 2015 letter to this email.

You are urged to carefully review this email and all attachments. You are reminded that as a condition of your probation you are required to "report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ('Office of Probation'), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code" (see p. 5 of your stipulation filed August 15, 2014). You are also reminded that you are not in compliance with the terms and conditions of your probation, and you may face a non-compliance referral which may result in the imposition of additional discipline and attendant costs.

Please contact me if you have any questions.

The screenshot shows the State Bar of California's Attorney Search interface. On the left, there is a navigation menu with sections for 'ATTORNEYS' (Public, Future Lawyers, About Us) and 'QUICKLINKS' (Consumer Information, How Can I Find and Hire the Right Lawyer?, Visit Form, FAQs, State Bar Overview). The main content area is titled 'ATTORNEY SEARCH' and features a profile for Steven Michael McCarthy - #85433. His current status is 'Active', and he is noted as a member who may practice law in California. The profile information section lists his bar number (85433), address (POB 2524, Deland, FL 32721), phone number (386) 736-8668, fax number (386) 736-8668, and email (Steve@McCarthyLegal.com). It also lists his undergraduate school (Univ of Virginia, Charlottesville VA) and law school (Golden Gate Univ SCL, San Francisco CA). The status history table shows he became active on 5/31/1979. The 'Actions Affecting Eligibility to Practice Law' section is currently empty.

ATTORNEY SEARCH

Steven Michael McCarthy - #85433

Current Status: Active

This member is active and may practice law in California.

See below for more details.

Profile Information

The following information is from the official records of The State Bar of California.

Bar Number: 85433

Address:
POB 2524
Deland, FL 32721

Phone Number: (386) 736-8668
Fax Number: (386) 736-8668
e-mail: Steve@McCarthyLegal.com

Undergraduate School:
Univ of Virginia, Charlottesville VA

Law School:
Golden Gate Univ SCL, San Francisco CA

County: Non-California
District: Outside California

Sections:
None

Status History

Effective Date	Status Change
Present	Active
5/31/1979	Admitted to The State Bar of California

Explanation of member status

Actions Affecting Eligibility to Practice Law

Effective Date	Description	Case Number	Resulting Status
Disciplinary and Related Actions			

Sincerely,

--
May Ling Fernandez | Probation Deputy
Office of Probation
The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017
213.765.1035 | May.Fernandez@calbar.ca.gov

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From: Caractacus@aol.com [mailto:Caractacus@aol.com]
Sent: Wednesday, June 10, 2015 6:40 PM
To: Fernandez, May
Subject: Re: Non-Compliance with your probation

Dear Ms. Fernandez,

Please provide (1) your facsimile transmission record for the representation of facsimile transmissions and/or attempts directed to me, including the date, time, sending number, and result; and (2) the letter you hereinbelow falsely represent as attached to your email.

Please pay particular attention to the details of this demand, as it is both (1) very simple and (2) is responding to the allegations of a state agency and you, a state agent.

Thank you in advance for your anticipated cooperation.

Steve McCarthy

In a message dated 6/10/2015 8:43:51 P.M. Eastern Daylight Time, May.Fernandez@calbar.ca.gov writes:

Dear Mr. McCarthy,

I tried to email and fax the attached letter to the contact information you have provided to the State Bar's Membership Records Office. I received a message stating that the email was undeliverable and the fax could not be transmitted. Please update your contact information with the Membership Records Office immediately. You are reminded that you are required to update the Membership Records Office within ten (10) days of any change in your contact information.

Sincerely,

--
May Ling Fernandez | Probation Deputy

Office of Probation

The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017

213.765.1035 | May.Fernandez@calbar.ca.gov

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THE STATE BAR OF CALIFORNIA

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

OFFICE OF PROBATION

Terrie Goldade, Supervising Attorney (213) 765-1494

TELEPHONE: (213) 765-1000

FAX: (213) 765-1439

http://www.calbar.ca.gov

May Ling Fernandez: (213) 765-1035

May.Fernandez@calbar.ca.gov

OFFICE OF PROBATION ADDRESS VERIFIED

June 3, 2015

June 3, 2015

BY: mlf

Steven M. McCarthy POB 3524 DeLand, FL 32721

Sent via email and mail.

In re: S222035 (14-J-02524)

In the Matter of Steven M. McCarthy

Dear Steven M. McCarthy:

On January 21, 2015, this office sent to you a letter (copy enclosed) for the purpose of reminding you of the terms and conditions of your probation imposed by the Supreme Court which became effective January 8, 2015.

The following chart summarizes your compliance and non-compliance with the conditions of your probation to date:

Table with 4 columns: Condition, Due Date, Completion Date, Comments. Rows include Schedule Req'd. Mtg., Hold Required Mtg., and Quarterly Reports.

You are not in compliance with the terms and conditions of your probation, and you may face a non-compliance referral which may result in the imposition of additional discipline and attendant costs (see attached). Even if you contact the Office of Probation, a referral may still be prepared. The Office of Probation will not send any further reminder letters regarding the aforementioned non-compliance or any future compliance due dates or lack of receipt of compliance documentation.

Please be reminded that LATE completion, submission, or filing of proof/documents, does not mean you are in compliance. You will never be in compliance because being even one day late means that you are not in compliance with the terms and conditions of your probation.

If for any reason, you cannot timely comply with the terms and conditions of the discipline imposed, and to avoid a non-compliance referral, you must file a motion with the State Bar Court. See rules 5.162 and 5.300, et seq., Rules of Procedure of the State Bar of California. A copy of the motion must be served

Steven M. McCarthy

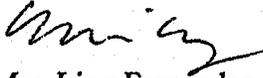
June 3, 2015

Page 2

upon the Office of Probation. *The Office of Probation does not have the authority to extend compliance due dates or modify the terms and conditions of your probation.*

Please note that even if you are referred, you are **STILL REQUIRED TO TIMELY COMPLY** with all probation conditions in this matter. Additional violations may be subject to a separate non-compliance referral. If you have any questions regarding this matter, please contact me at (213) 765-1035.

Sincerely,



May Ling Fernandez
Probation Deputy

/mlf

Enclosure(s)

00093

Discipline Costs - 2015

Effective January 1, 2015.

Pursuant to action by the State Bar's governing board in January 2011 and May 2012, the costs assessed for disciplinary matters are adjusted annually to account for changes in labor and other resource costs. The adjustment is calculated by combining 40% of the year-on-year percentage change in the Consumer Price Index¹ with 60% of the annual percentage change in the Employment Cost Index for Management, Professional and Related Occupations². For 2015, the adjustment is an increase of 2.47%.

For matters filed on or after January 1, 2015, the costs assessed are as follows:

Original Proceedings (Stage at which the matter settles)	Cost Assessment
Matters that go in Default	\$4,451
Matters that Settle Prior to Filing of a Notice of Disciplinary Charges	\$3,066
Matters that Settle during first 120 days of proceeding	\$3,584
Matters that Settle before Pretrial Statement is filed	\$5,680
Matters that Settle before trial but after Pretrial Statement is filed	\$7,431
Matters that proceed to a One-day trial	\$7,431
Matters that proceed to a Multi-day trial	\$16,758
Matters that proceed to the Review Department	\$20,499

Conviction Referrals (Stage at which the matter settles)	Cost Assessment
Matters that go into Default	\$3,003
Matters that Settle during the first 120 days of proceeding	\$2,507
Matters that Settle before Pretrial Statement is filed	\$5,378
Matters that Settle before trial but after Pretrial Statement is filed	\$7,059
Matters that proceed to a One-day trial	\$7,059
Matters that proceed into a Multi-day trial	\$12,854
Matters that proceed to the Review Department	\$18,375

Other Matters	Cost Assessment
Probation Revocation Proceedings	\$2,401
Rule 9.20 Proceedings	\$2,549

Additional Costs (as appropriate)	Cost Assessment
Each investigation matter over one	\$978
Each resignation	\$137
Consolidation cost equal to the minimum cost for the consolidated case type	
Transcript costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(1))	
Taxable costs incurred by the Office of the Chief Trial Counsel (BPC § 6086.10(b)(2))	

¹ Specifically, the December-to-December change in U.S. Bureau of Labor Statistics series CUURA422SA0.

² Specifically, the Q4-to-Q4 change in U.S. Bureau of Labor Statistics series CIU20100001000001.



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OF CALIFORNIA

845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515

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TELEPHONE: (213) 765-1000

FAX: (213) 765-1439

<http://www.calbar.ca.gov>

May Ling Fernandez: (213) 765-1035

OFFICE OF PROBATION

ADDRESS VERIFIED

January 21, 2015

January 21, 2015

Steven M. McCarthy
POB 3524
DeLand, FL 32721

BY: mlf

In re: S222035 (14-J-02524)

In the Matter of Steven M. McCarthy

Dear Steven M. McCarthy:

This reminder letter is sent to you as a courtesy and based upon information that you are not currently represented by counsel in this matter—the enforcement of your probation terms and conditions. If this is incorrect, please complete the Notice of Counsel Representation form and submit the original to the Office of Probation within five days so that future communications may be directed to your counsel.

As you know, on December 9, 2014, the Supreme Court of California filed an Order, effective January 8, 2015, suspending you from the practice of law for a period of one (1) year, staying execution and placing you on probation upon certain conditions for a period of two (2) years.

You must schedule a meeting with me to discuss the terms and conditions of your discipline within 30 days from the effective date of discipline. Make sure you read this letter including all attachments before the required meeting.

Additionally, by court order, you must take and provide proof of successful passage of the Multi-State Professional Responsibility Examination (MPRE) to the Office of Probation on or before **January 8, 2016**. You must select "California" as the jurisdiction to receive your score report during registration. It is important that you plan to take this examination well in advance of the due date so that you can re-take the examination if you do not receive a passing score. The passing scaled score is 86. The MPRE is only offered three (3) times a year, but you may not have three chances to take the MPRE by your particular deadline. Failure to provide proof of passage of this examination by the due date may result in your indefinite suspension until you provide proof that you have passed the examination. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn 8.)

In order to comply with the terms and conditions of your probation, you must report the status of your compliance, in each and every respect, by letter with any attachments, executed under penalty of perjury, and addressed to the Office of Probation. As a courtesy, the Office of Probation has prepared a Quarterly Report form for your use. Should you happen to lose your Quarterly Report form, you must submit your request for a copy in writing explaining why you could not maintain a copy for yourself.

Each of your reports must be a clear and unequivocal statement of compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

Please read the Instructions and review the Quarterly Report carefully to determine whether you believe that it accurately reflects the required terms and conditions. If you believe there is an error, or if there are any questions, please notify me immediately. **You are responsible for timely complying with each and every term and condition whether or not it is reflected in this letter and/or the Quarterly Report form.** You are reminded that for all conditions, proof of compliance must be physically received in the Office of Probation by your due date. **Being even one day late** means that you are **NOT** in compliance.

The conditions of your probation with compliance due dates are outlined below. Please note this summary **only** reflects those conditions and compliance due dates that require submission of proof of compliance to the Office of Probation. For a thorough review of all conditions, please refer to the enclosed copy of that portion of the disciplinary order setting forth the conditions of probation.

<u>Condition</u>	<u>Deadline(s)</u>
1. Contact Probation Deputy & Schedule Required Meeting	February 7, 2015
2. Quarterly Reports	Quarterly; beginning April 10, 2015
3. Continuing Legal Education Courses	January 8, 2016 ¹
4. MPRE	January 8, 2016
5. Final Report	January 8, 2017

You are reminded that all Quarterly Reports are due on or before the 10th day after the end of each quarter. If the 10th falls on a holiday or a weekend, the report must be received by the Office of Probation **prior** to that holiday or weekend. Your Final Report is due on or before January 8, 2017.

You are required to report, and in no event in more than ten (10) days, to the Membership Records Office of the State Bar and the Office of Probation, all changes of information including current name, office address and telephone number, or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code. The Office of Probation will **only** send documents to your official membership records address.

Further, please be advised that the Office of Probation **does not** have the authority to extend compliance due dates or modify the terms and conditions of the discipline order. **Request for extension of time or modification of the terms and conditions of the discipline order must be filed with the State Bar Court Hearing Department or Review Department.** See, Rules of Procedure of the State Bar of California, rules 5.162 and 5.300, et seq. A copy of the motion must be served upon the Office of

¹ You must complete twelve (12) hours of continuing legal education in legal ethics no later than January 8, 2016. Satisfactory proof of completion must be received by the Office of Probation no later than February 7, 2016.

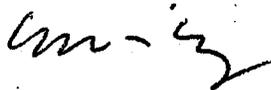
Probation. Failure to timely submit reports or any other proof of compliance may result in a non-compliance referral which may lead to the imposition of additional discipline.

Enclosed are copies of the Supreme Court Order and conditions of probation, which you have already received from the Courts or your counsel, Multi-State Professional Responsibility Examination schedule, Quarterly Report with instructions, MCLE information sheet, and Notice of Counsel Representation form.

It is recommended that you maintain a file containing all orders as well as communication between the Office of Probation and yourself. Keep your file in a convenient location so that if you have contact with the Office of Probation, any question can be quickly addressed. It is further recommended that you sign all original documents in blue so that the Office of Probation will immediately be able to ascertain whether you have provided the required original(s).

Please note that the Court has determined that the repeated need of the State Bar to actively intervene to seek compliance with disciplinary terms and conditions is inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney discipline system. *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.

Sincerely,



May Ling Fernandez
Probation Deputy

/mlf

Enclosures

DEC 09 2014

(State Bar Court No. 14-J-02524)

Frank A. McGuire Clerk

S222035

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re STEVEN MICHAEL McCARTHY on Discipline

The court orders that Steven Michael McCarthy, State Bar Number 85433, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Steven Michael McCarthy must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 15, 2014; and
2. At the expiration of the period of probation, if Steven Michael McCarthy has complied with the terms of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

Steven Michael McCarthy must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are 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. One-third of the costs must be paid with his membership fees for each of the years 2016, 2017, and 2018. If Steven Michael McCarthy fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

CANTIL-SAKAUYE
Chief Justice

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

____ day of DEC 9 2014
Clerk

00098

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of one year.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

(1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.

(2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.

(3) Within thirty (30) days from 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.

(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 conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

(5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.

- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
- No Ethics School recommended. Reason: Please see section "F (2)" below.
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.
- No MPRE recommended. Reason:
- (2) **Other Conditions:**
- As a condition of Respondent's probation and in lieu of attending State Bar Ethics School (which would require Respondent to return to California from his current home in Oregon), Respondent shall complete 12 hours of continuing legal education in legal ethics within one year of the effective date of this stipulation and provide proof, in writing, to the Office of Probation within 30 days thereafter. This requirement is separate from any MCLE requirement, and Respondent will not receive any MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar).

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION ("MPRE")

2015 Examination Schedule and Information

This document was created as a courtesy by the State Bar of California, Office of Probation.

The State Bar of California does NOT administer the MPRE.
**TO REGISTER AND FOR THE MOST RECENT INFORMATION REGARDING MPRE TEST
DATES, DEADLINES, RESOURCES, ETC., YOU MUST CONTACT:**

National Conference of Bar Examiners ("NCBE")

Website: www.ncbex.org

Test Dates*	Regular Registration Deadline (\$80)*	Late Registration Deadline (\$160)*	Scores Tentatively Released by
Saturday, March 28, 2015	February 5, 2015	February 12, 2015	May 2, 2015
Saturday, August 15, 2015	June 25, 2015	July 2, 2015	September 19, 2015
Saturday, November 7, 2015	September 17, 2015	September 24, 2015	December 12, 2015

1. The MPRE fee for applications received on or before the regular receipt deadline is \$80. The MPRE fee for applications received after the regular receipt deadline but before the late receipt deadline is \$160.
2. To provide proof of successful passage of the MPRE to the Office of Probation, you **MUST**: 1) during registration, select California as the jurisdiction to receive your score report; **AND** 2) send a copy of your score release to the Office of Probation on or before your due date. Failure to comply with these requirements will delay confirming your passage of the MPRE, and it may result in an automatic suspension in probation matters or a non-compliance referral in all other matters.
3. Requests for special accommodations during the examination must be made to the National Conference of Bar Examiners in advance of the examination.

Passing scaled score 86

**Information may change at any time, please check the NCBE's website for current information.*

Revised 01/20/15

<p>IN THE MATTER OF Steven M. McCarthy</p> <p>CASE NO(s): S222035 (14-J-02524)</p> <p>Probation</p>	<p><i>(For Office of Probation Use Only)</i></p>
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QUARTERLY REPORT

First Report Due: April 10, 2015
(for period January 8, 2015 through March 31, 2015)

Final Report Due: January 8, 2017
(for period October 1, 2016 through January 8, 2017)

Due: **January 10, 20__** **April 10, 20__** **July 10, 20__** **October 10, 20__**
(for period 10/1 through 12/31) (for period 01/01 through 3/31) (for period 4/1 through 6/30) (for period 7/1 through 9/30)

Make sufficient copies of this form for future use and mail reports to State Bar of California, Attn: Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Place an "X" before each of the statements below that applies to you:

Compliance with State Bar Act and Rules; and Report on SBC Proceedings

During the reporting period noted above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation; and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Or

During the reporting period above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation **EXCEPT** (please list specific violations - - do NOT list pending proceedings in this space):

_____ (attach declaration under penalty of perjury if more space is needed); and during the preceding calendar quarter, there were no proceedings pending against me in the State Bar Court, or if there were, I have attached my declaration, signed under penalty of perjury, regarding my pending proceeding(s) in State Bar Court including the case number(s), and current status.

Current Address

- ___ Within 10 days of any change, I reported to the Membership Records Office and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information including current name, office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code

Multi-State Professional Responsibility Examination

- ___ I have registered for the MPRE given on _____.
- ___ I have taken the MPRE given on _____ and am awaiting the results.
- ___ I passed the MPRE given on _____. A copy of my results is attached if not previously submitted.
- ___ I did not pass the MPRE given on _____ and have re-scheduled to take the examination given on _____.

Continuing Legal Education Courses

- ___ I have completed ___ hour(s) of California Minimum Continuing Legal Education-approved course(s) in legal ethics and have attached proof of completion if not previously submitted. I understand that the course hours required by this condition are in addition to any requirement I must meet in compliance with the State Bar Minimum Continuing Legal Education Program.

I declare under penalty of perjury under the laws of the State of California that all of the information provided in this report is true and accurate.

Date: _____
(Date of actual signature)

Signature: _____
Steven M. McCarthy
(Please sign in blue ink)

QUARTERLY REPORT INSTRUCTIONS

1. The enclosed Quarterly Report form has been tailored to reflect the conditions of your discipline that are to reported to the Office of Probation. Please review it carefully. If you believe that it does not accurately reflect your conditions, immediately contact the Office of Probation. Note that even if the Office of Probation makes an error, **you are required to timely complete all of your ordered conditions**. The report form is provided as a courtesy only, and you are not required to use it.
2. The Office of Probation will **NOT** provide you with multiple copies of the courtesy Quarterly Report form. **YOU MUST MAKE ENOUGH COPIES TO USE FOR ALL FUTURE QUARTERLY AND FINAL REPORTS.** In the future, one additional copy **may** be provided if you make a written request with an explanation under penalty of perjury why you need such copy made.
3. For each quarter's report, mark the box for the correct reporting period and write in the correct year. Place an "X" in front of each condition that applies to your activities during each respective reporting period. Provide all required information.
4. Your report may be signed and mailed at the end of your business day on the last day of the month of each calendar quarter (i.e., March 31st, June 30th, September 30th and December 31st). **YOUR REPORT WILL BE REJECTED IF YOU DATE, SIGN, AND/OR SEND IT BEFORE THE LAST DAY OF THE LAST MONTH OF EACH CALENDAR QUARTER.**

REPORTING PERIOD	REPORT TO BE RECEIVED IN THE OFFICE OF PROBATION BY
January 1 - March 31	April 10
April 1 - June 30	July 10
July 1 - September 30	October 10
October 1 - December 31	January 10

5. Your original signed and dated report must be physically **received in the Office of Probation** on or before the tenth of January, April, July, and October. If the tenth falls on a weekend or holiday, you must send your report so that it is received no later than the last State Bar business day **before the 10th**; The State Bar is not open on weekends or holidays and does not receive mail on those days. State Bar observed holidays include among others, New Year's day, Cesar Chavez Day, Independence Day, and Columbus day. For all conditions, being **even one day late** means that you are **not** in compliance.
6. The report must contain an **original signature** in order to be filed with the Office of Probation. It is recommended that you sign each report using blue ink. Because your report must be made under penalty of perjury, you must date it the date you sign it and not pre-date it or post-date it. See, Code of Civil Procedure section 2015.5.
7. Because it is your responsibility to have an original, compliant report in to the Office of Probation by the tenth, and because some Respondents have claimed that their reports were lost in the mail, you may choose to send your reports in a manner that provides you with proof of delivery.
8. The Office of Probation files your report as of the date it is received, and **NOT** the date you mail it.
9. The Office of Probation will **NOT** contact you before and/or after each quarterly report is due. You must calendar all of your deadlines to ensure timely receipt by the Office of Probation.
10. Each report is to be a perpetual document and is to reflect past and/or current status or compliance.
11. Each of your reports must be a clear and unequivocal statement of your compliance. See *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244. If it is not, it can be rejected for filing.

If you have any questions regarding this information, please contact May Ling Fernandez in the Office of Probation at (213)765-1035.

MCLE Information Sheet

Orders vary regarding the Minimum Continuing Legal Education (MCLE) requirements, but many orders require similar conditions. Read your requirements closely, and immediately ask your Probation Deputy if you have any questions.

1. The Office of Probation generally adheres to, and routinely consults, the MCLE information on the State Bar of California's website: <http://mcle.calbar.ca.gov/MCLE.aspx>. For example, the MCLE you submit must be provided by approved California MCLE providers; they are listed on the website.
2. The State Bar's website defines self-study and participatory. If you are required to do participatory MCLE, self-study courses will not be accepted. If you are required to do "live", you must physically attend the course(s). Unless your order states it is acceptable for you to receive MCLE for courses you teach, the Office of Probation will **NOT** credit such hours to your condition.
3. Generally, your disciplinary requirement is separate from your regular MCLE requirement, and claiming credit for MCLE already applied toward your disciplinary requirements is a violation of the Rules of Procedure of the State Bar, rule 3201.
4. Generally, you will NOT receive credit for courses completed before the effective date of your discipline.
5. Generally, you are required to provide "satisfactory evidence" to the Office of Probation. Forward the certificate you receive from any participatory and live courses you take. If you are permitted to take self-study courses, there is NOT generally "satisfactory evidence" provided by computer courses. If you listen to CDs and/or watch DVDs, send a photocopy of each CD and/or DVD along with a statement under penalty of perjury that you listened and/or watched each CD and/or DVD.
6. Generally, like most of the conditions, the deadline is for you to have your proof of completion of the MCLE received by the Office of Probation, NOT for you to have completed the courses.
7. If you may take courses in general legal ethics, the Office of Probation will give credit for courses approved by the State Bar of California in ethics.
8. If you are to take courses in Law Office Management, please note that Law Office Management may differ from Law Practice Management. Law Office Management usually covers issues involved in the day to day running of a law office, which might include calendaring, trust accounting, etc. Law Practice Management usually covers issues involved in growing your practice, limiting your liability, etc.
9. It can be difficult to find MCLE in Attorney Client Relations and/or Law Office Management. It can be even more difficult to find live courses in those topics. Plan ahead: begin looking for courses as quickly as possible.
10. Before you spend time and money on a course which may not be applicable to your requirement, you may send a copy of the provider, course title and information, and course description to the Office of Probation's Supervising Attorney, Terrie Goldade, for review via mail (to the Office of Probation), fax at (213) 765-1439, or e-mail to terrie.goldade@calbar.ca.gov.
11. Sometimes only a portion of a course may satisfy your requirement. The Office of Probation has not attended all courses by all providers, and so cannot make a reasoned determination as to what portion of a course might be applicable. Accordingly, sometimes a course may not be approved. If a course is borderline, it is more likely to be approved if it relates to your practice and the facts related to your matter. For example, if you had problems in relation to failing to supervise employees, a Law Office Management course relating in part to employee supervision is more likely to be approved for you; it is less likely to be approved for someone who has no employees and/or whose problems were related to, for example, commingling money with client trust account funds.

Like any other condition, if you fail to timely comply with each requirement, you may be referred for non-compliance. A referral can result in the imposition of discipline, with attendant costs.

Revised 06/30/11

00105

NOTICE OF COUNSEL REPRESENTATION

Respondent: Steven M. McCarthy

State Bar Case #: S222035 (14-J-02524)

Member Number: 85433

Counsel Name: _____

Firm Name: _____

Address: _____

Bar Number: _____

Phone Number: _____

Respondent Signature: _____

Date: _____

Counsel Signature: _____

Date: _____

Please complete and return this form to the Office of Probation, 845 South Figueroa Street, Los Angeles, California 90017-2515.

Fernandez, May

From: Mail Delivery System <MAILER-DAEMON@p01c12o148.mxlogic.net>
Sent: Monday, June 08, 2015 3:20 PM
To: Fernandez, May
Subject: Mail delivery failed
Attachments: ATT00001.txt

This message was created automatically by mail delivery software.

A message that you have sent could not be delivered to one or more recipients. This is a permanent error. The following address(es) failed:

<steve@mccarthylegal.com>: Message was undeliverable and has expired

Fernandez, May

From: Mail Delivery System <MAILER-DAEMON@p01c12o148.mxlogic.net>
Sent: Wednesday, June 03, 2015 7:20 PM
To: Fernandez, May
Subject: Warning: could not send message for past 4 hours
Attachments: ATT00001.txt

=====
THIS IS A WARNING MESSAGE ONLY
YOU DO NOT NEED TO RESEND YOUR MESSAGE
=====

A temporary error occurred while delivering to the following address(es):

<steve@mccarthylegal.com>: 451 All MX servers are unavailable for domain mccarthylegal.com

I will continue trying to send the message until it is delivered or expires.

ATT00001.txt

Included is a copy of the message header:

Received: from unknown [67.97.90.154] (EHLO SFCAS01.calsb.org)
by p01c12o148.mxlogic.net(mx1_mta-8.4.0-1) over TLS secured channel
with ESMTTP id efc7f655.0.580528.00-311.1650515.p01c12o148.mxlogic.net
(envelope-from <may.fernandez@calbar.ca.gov>);
wed, 03 Jun 2015 16:17:34 -0600 (MDT)
X-MXL-Hash: 556f7cfe6fd2390c-0633b4b0802c235b785bf9f4141d130158483794
Received: from SFMAIL05.calsb.org ([fe80::615f:744d:4b5:67be]) by
SFCAS01.calsb.org ([fe80::f05e:89d5:a272:b081%17]) with mapi id
14.03.0210.002; wed, 3 Jun 2015 15:17:33 -0700
From: "Fernandez, May" <May.Fernandez@calbar.ca.gov>
To: "'Steve@McCarthyLegal.com'" <Steve@McCarthyLegal.com>
Subject: Non-Compliance with your Probation
Thread-Topic: Non-Compliance with your Probation
Thread-Index: AdCeSwpx4eiN9DNQQDSAR6NBVeL1rQ==
Disposition-Notification-To: "Fernandez, May" <May.Fernandez@calbar.ca.gov>
Return-Receipt-To: <May.Fernandez@calbar.ca.gov>
Date: wed, 3 Jun 2015 22:17:33 +0000
Message-ID: <302A4449378E684385DBA605A6E2AB5E217A159E@SFMAIL05.calsb.org>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
x-originating-ip: [172.15.16.45]
Content-Type: multipart/mixed;
boundary="_004_302A4449378E684385DBA605A6E2AB5E217A159ESFMAIL05calsbor_"
MIME-version: 1.0

MODE = MEMORY TRANSMISSION

START=JUN-10 16:49

END=JUN-10 17:14

FILE NO.=774

STN NO.	COMM.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	503	B9-13867368668	000/016	00:05:24

-STATE BAR OF CALIF. -

***** UF-8000 V2 ***** -LOS ANGELES - ***** 213 765 1318- *****



THE STATE BAR OF CALIFORNIA

OFFICE OF PROBATION

Terrie Goldade, Supervising Attorney (213) 765-1494
845 SOUTH FIGUEROA STREET, LOS ANGELES, CALIFORNIA 90017-2515
TELEPHONE: (213) 765-1000
FAX: (213) 765-1439
http://www.csbar.ca.gov

FACSIMILE COVER SHEET

DATE: June 10, 2015

TO: Steven M. McCarthy

FAX No.: (386) 736-8668

FROM: May Ling Fernandez
Office of Probation, State Bar of California

PHONE No.: (213) 765-1035

Number of pages (including cover sheet): 16

RE: Non-Compliance with your Probation

The following letter was mailed and emailed to you on June 3, 2015. You are receiving this fax because the Office of Probation received an email message that the email was undeliverable. Please update your contact information with the Membership Records Office immediately. You are reminded that you are required to update the Membership Records Office within ten (10) days of any change in your contact information including "other address for State Bar purposes".

Will follow in U.S. Mail

Will NOT follow in U.S. Mail
Unless requested to Probation

FACSIMILE PRIVACY NOTICE: This facsimile transmission with its contents may contain sensitive, confidential and/or legally privileged information. This communication is solely for the use of the intended recipient(s) named above. Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

Fernandez, May

From: Fernandez, May
Sent: Wednesday, June 10, 2015 5:43 PM
To: 'Caractacus@aol.com'
Subject: Non-Compliance with your probation
Attachments: Non-Compliance Letter.pdf

Dear Mr. McCarthy,

I tried to email and fax the attached letter to the contact information you have provided to the State Bar's Membership Records Office. I received a message stating that the email was undeliverable and the fax could not be transmitted. Please update your contact information with the Membership Records Office immediately. You are reminded that you are required to update the Membership Records Office within ten (10) days of any change in your contact information.

Sincerely,

--
May Ling Fernandez | Probation Deputy
Office of Probation
The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017
213.765.1035 | May.Fernandez@calbar.ca.gov

This message may contain confidential information that may also be privileged. Unless you are the intended recipient or are authorized to receive information for the intended recipient, you may not use, copy, or disclose the message in whole or in part. If you have received this message in error, please advise the sender by reply e-mail and delete all copies of the message. Thank you.

Fernandez, May

From: Microsoft Outlook
To: 'Caractacus@aol.com'
Sent: Wednesday, June 10, 2015 5:44 PM
Subject: Relayed: Non-Compliance with your probation

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

'Caractacus@aol.com' (Caractacus@aol.com) <<mailto:Caractacus@aol.com>>

Subject: Non-Compliance with your probation

Fernandez, May

From: Microsoft Outlook
To: 'Caractacus@aol.com'; 'Steve@McCarthyLegal.com'
Sent: Thursday, June 11, 2015 6:39 PM
Subject: Relayed: RE: Non-Compliance with your probation

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

'Caractacus@aol.com' (Caractacus@aol.com) <<mailto:Caractacus@aol.com>>

'Steve@McCarthyLegal.com' (Steve@McCarthyLegal.com) <<mailto:Steve@McCarthyLegal.com>>

Subject: RE: Non-Compliance with your probation

Fernandez, May

From: Mail Delivery System <MAILER-DAEMON@p01c12o147.mxlogic.net>
Sent: Thursday, June 11, 2015 10:41 PM
To: Fernandez, May
Subject: Warning: could not send message for past 4 hours
Attachments: ATT00001.txt

=====
THIS IS A WARNING MESSAGE ONLY
YOU DO NOT NEED TO RESEND YOUR MESSAGE
=====

A temporary error occurred while delivering to the following address(es):

<steve@mccarthylegal.com>: 451 All MX servers are unavailable for domain mccarthylegal.com

I will continue trying to send the message until it is delivered or expires.

ATT00001.txt

Included is a copy of the message header:

Received: from unknown [67.97.90.154] (EHLO SFCAS01.calsb.org)
by p01c12o147.mxlogic.net(mxlm_tta-8.4.0-1) over TLS secured channel
with ESMTTP id 7483a755.0.367010.00-269.1038197.p01c12o147.mxlogic.net
(envelope-from <may.fernandez@calbar.ca.gov>);
Thu, 11 Jun 2015 19:39:20 -0600 (MDT)
X-MXL-Hash: 557a38483dc0ab75-dae0c35161a3b3c7962ef305334b6f4d755208c
Received: from SFMAIL05.calsb.org ([fe80::615f:744d:4b5:67be]) by
SFCAS01.calsb.org ([fe80::f05e:89d5:a272:b081%17]) with mapi id
14.03.0210.002; Thu, 11 Jun 2015 18:39:18 -0700
From: "Fernandez, May" <May.Fernandez@calbar.ca.gov>
To: "'Caractacus@aol.com'" <Caractacus@aol.com>
CC: "'Steve@McCarthyLegal.com'" <Steve@McCarthyLegal.com>
Subject: RE: Non-Compliance with your probation
Thread-Topic: Non-Compliance with your probation
Thread-Index: AQHQo+d77Tn/0TPCTcyvelWpcJyd7p2n/UDg
Disposition-Notification-To: "Fernandez, May" <May.Fernandez@calbar.ca.gov>
Return-Receipt-To: <May.Fernandez@calbar.ca.gov>
Date: Fri, 12 Jun 2015 01:39:18 +0000
Message-ID: <302A4449378E684385DBA605A6E2AB5E217A1BB4@SFMAIL05.calsb.org>
References: <22fd8.2911b0a.42aa40dc@aol.com>
In-Reply-To: <22fd8.2911b0a.42aa40dc@aol.com>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
x-originating-ip: [172.15.16.45]
Content-Type: multipart/mixed;
boundary="_009_302A4449378E684385DBA605A6E2AB5E217A1BB4SFMAIL05calsbor_"
MIME-Version: 1.0

Fernandez, May

From: Mail Delivery System <MAILER-DAEMON@p01c12o147.mxlogic.net>
Sent: Tuesday, June 16, 2015 6:40 PM
To: Fernandez, May
Subject: Mail delivery failed
Attachments: ATT00001.txt

This message was created automatically by mail delivery software.

A message that you have sent could not be delivered to one or more recipients. This is a permanent error. The following address(es) failed:

<steve@mccarthylegal.com>: Message was undeliverable and has expired

Fernandez, May

From: Fernandez, May
Sent: Tuesday, June 16, 2015 11:58 AM
To: 'Caractacus@aol.com'
Subject: RE: Non-Compliance with your probation
Attachments: RESIGNATION PACKAGE.pdf

Dear Mr. McCarthy,

I am unaware of a way you can "quit" the State Bar of California. However, you may wish to consider a resignation with charges pending. Attached are documents regarding such a resignation. For more information, contact the Office of the Chief Trial Counsel at the State Bar's general number (213) 765-1000.

If you change to inactive status, you will still need to comply with the probation conditions you negotiated with the Office of the Chief Trial Counsel, and which were ordered by the Supreme Court of California. If you do not comply, a non-compliance referral will be made which can result in additional discipline and costs. You are reminded that (1) you are not in compliance, and (2) the Office of Probation does not have the authority to modify your Order. If you wish to modify the terms or conditions of your probation, the request must be filed with the State Bar Court and served on the Office of Probation.

The Office of Probation will continue to monitor your compliance with your probation unless and until the Court orders otherwise.

Sincerely,

--
May Ling Fernandez | Probation Deputy
Office of Probation
The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017
213.765.1035 | May.Fernandez@calbar.ca.gov

This message may contain confidential information that may also be privileged. Unless you are the intended recipient or are authorized to receive information for the intended recipient, you may not use, copy, or disclose the message in whole or in part. If you have received this message in error, please advise the sender by reply e-mail and delete all copies of the message. Thank you.

From: Caractacus@aol.com [mailto:Caractacus@aol.com]
Sent: Monday, June 15, 2015 11:38 AM
To: Fernandez, May
Subject: Fwd: Non-Compliance with your probation

May,

It is likely beyond your experience to have suffered a complete economic catastrophe; however, I thought I might explain to you my present situation just at least for the value of the notice this provides.

In 2008, the bottom fell out. You may not have had a dog in that fight, but I had several and they were slaughtered. In 2009, I filed a Ch. 13. My then wife maintained the household bills because I was getting morosely depressed, something else with which you probably have no experience. She stopped paying the mortgage on our two properties in March, 2012, and in the late summer of 2013, expropriated \$65,000 which I have never recovered.

My work started failing, and Oregon, being the impoverished bastion of regionalism, nepotism, cronyism, and ignorance that it is, decided to run me out once I pushed the adoption of a vexatious litigant statute like CA's, the adoption of *Rowland v. Christian* and the new restatement approval of that doctrine, and attacked the OR wrongful death statute, which in effect abrogates federal diversity jurisdiction; among other things, not the least of which was a complaint to the AG and CJ of gross ethical violations by Polk County and other judges. If you have any interest in the nature of legal progress outside your own salary, the paperwork on some of this is readily available in *Coddington v. FNMA* and *Krela v. Kryla*; both in the 9th Circuit.

When I practiced in CA from 1979-2007, as your no doubt complete records will reflect, I was well regarded (see 2006 CWL recommendation to judicial appointments secretary) and had no record of discipline. Unfortunately, now I do, and there was nothing I could do about it. I was set up for it, and even the OSB was well aware that I was being singled out for special treatment.

So the long and short of all this is that since 2013 I have had no appreciable income from any source. CA charged me more for reciprocal discipline costs than Oregon did through hearing at the OR supremes. I cannot even take the bar in FL if I am not in good standing in any other jurisdiction. Therefore, I cannot pay any of this, nor should I, as I am at present completely judgment proof. As your elders and superiors about that if the term is unfamiliar to you.

So I want to ask you, because you have at least some interest in this, if I can just quit the California bar. I am not able to comply with the terms of my "probation."

I hope you might respond with something on the order of human understanding, since I have devoted my entire life to the justice system; but will appreciate whatever you have to say regardless as it reflects only on you, not me.

VTY

Steve McCarthy

From: Caractacus@aol.com
To: May.Fernandez@calbar.ca.gov
Sent: 6/12/2015 2:44:29 P.M. Eastern Daylight Time
Subj: Re: Non-Compliance with your probation

Maybe you can tell me if this is a one way street to being disbarred for not being able to pay the freight. You probably have absolutely no idea what's going on with me, and I'm even more certain you couldn't care less. But:

Can I go inactive?

Steve

In a message dated 6/11/2015 9:39:30 P.M. Eastern Daylight Time, May.Fernandez@calbar.ca.gov writes:

Dear Mr. McCarthy,

On January 21, 2015, I mailed you a letter reminding you of the conditions of your probation as ordered by the Supreme Court in its Order filed December 9, 2014 (a copy of this letter was included as an enclosure to the letter mailed June 3, 2015 and which is attached to this email). The January 21, 2015 letter was mailed to the address you had on record with the Membership Records Office as of that date, and which is still displayed as the address on record with the Membership Records Office as of today (see below for a screenshot from today of your membership webpage containing said information). The January 21, 2015 letter has not been returned to the Office of Probation as undeliverable.

On June 3, 2015, I mailed and emailed you a letter regarding your non-compliance with your probation. The letter was mailed to the address on record with the Membership Records Office as of the date of mailing, which is the same address to which the January 21, 2015 letter was mailed and the address on record with the Membership Records Office as of today. The June 3, 2015 letter which was mailed was not returned as undeliverable. As a courtesy, I also emailed the June 3, 2015 letter to the email address you had on record with the Membership Records Office as of June 3, 2015, "Steve@McCarthyLegal.com". As of today, the email address you have on record with the Membership Records Office is still "Steve@McCarthyLegal.com". On June 3, 2015, I received a "Mail Delivery System" email notifying me that the servers for the domain "mccarthylegal.com" were unavailable and that the mail system would continue to try to send my message until it is delivered or expires. On June 8, 2015, I received a second email from the Mail Delivery System notifying me that the message to "Steve@McCarthyLegal.com" was undeliverable and had expired. The notification emails from "Mail Delivery System" are attached to this email.

Because my courtesy email to you on June 3, 2015 was unsuccessful, I faxed you a copy of the June 3, 2015 letter on June 10, 2015 to the fax number you had on record with the Membership Records Office as of that date. As of today, the fax number you have on record with the Membership Records Office is still "(386) 736-8668". The fax machine dialed your fax number multiple times and was unsuccessful in transmitting the June 3, 2015 letter. Attached you will find a copy of the fax transmission record.

Since my email and my fax were both unsuccessful, I emailed you a courtesy copy of the June 3, 2015 letter to your private email address on June 10, 2015. You claim that I falsely represented having attached the June 3, 2015 letter to my email. I checked my outgoing messages and the letter was included as an attachment to the June 10, 2015 email. Copies of my outgoing message and relay confirmation are attached to this email; please note the highlighted portion of the outgoing message showing an attachment titled "Non-Compliance Letter.pdf". As a courtesy, I am once again attaching a copy of the June 3, 2015 letter to this email.

You are urged to carefully review this email and **all attachments**. You are reminded that as a condition of your probation you are required to "report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ('Office of Probation'), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code" (see p. 5 of your stipulation filed August 15, 2014). You are also reminded that you are not in compliance with the

terms and conditions of your profession, and you may face a non-compliance penalty which may result in the imposition of additional discipline and attendant costs.

Please contact me if you have any questions.

ATTORNEYS

PUBLIC

EMERGENCY LAWYERS

ADMITTALS

QUICKLINKS

Consumer Information

How Can I Find and Hire the Right Lawyer?

Will Form

FAQs

State Bar Overview

Home > Public > Attorney Search > Attorney Profile

ATTORNEY SEARCH

Steven Michael McCarthy - #85433

Current Status: Active

This member is active and may practice law in California.

See below for more details.

Profile Information

The following information is from the official records of The State Bar of California.

Bar Number: 85433

Address:
 POB 3524
 DeLand, FL 32721

Phone Number: (386) 736-8668
Fax Number: (386) 736-8668
e-mail: Steve@McCarthyLegal.com

Undergraduate School:
 Univ of Virginia, Charlottesville VA

Law School:
 Golden Gate Univ SCL, San Francisco CA

County: Non-California
District: Outside California

Sections:
 None

Status History

Effective Date	Status Change
Present	Active
5/31/1979	Admitted to The State Bar of California

Explanation of member status:

Actions Affecting Eligibility to Practice Law

Effective Date	Description	Case Number	Resulting Status
Disciplinary and Related Actions			

Click on the arrows of the accused discipline system.

ATTORNEY PROVIDED INFORMATION

The information below was provided by the attorney. It has not been verified or inspected. The State Bar does not recommend or endorse any attorney.



Practice Area(s):

- Administrative Law
- Appellate Practice
- Civil Rights
- Commercial Law
- Criminal Law
- Debtor & Creditor
- Elder Law
- Family Law
- Legal Malpractice
- Litigation
- Medical Malpractice
- Personal Injury
- Products Liability
- Professional Liability
- Toxic torts

Website:
www.McCarthyLegal.com

Sincerely,

May Ling Fernandez | Probation Deputy

Office of Probation

The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017

This message may contain confidential information that may also be privileged. Unless you are the intended

recipient or are authorized to receive information for the intended recipient, you may not use, copy, or disclose

the message in whole or in part. If you have received this message in error, please advise the sender by reply

e-mail and delete all copies of the message. Thank you.

From: Caractacus@aol.com [mailto:Caractacus@aol.com]

Sent: Wednesday, June 10, 2015 6:40 PM

To: Fernandez, May

Subject: Re: Non-Compliance with your probation

Dear Ms. Fernandez,

Please provide (1) your facsimile transmission record for the representation of facsimile transmissions and/or attempts directed to me, including the date, time, sending number, and result; and (2) the letter you hereinbelow falsely represent as attached to your email.

Please pay particular attention to the details of this demand, as it is both (1) very simple and (2) is responding to the allegations of a state agency and you, a state agent.

Thank you in advance for your anticipated cooperation.

Steve McCarthy

In a message dated 6/10/2015 3:51 P.M. Eastern Daylight Time,
May.Fernandez@calbar.ca.gov writes:

Dear Mr. McCarthy,

I tried to email and fax the attached letter to the contact information you have provided to the State Bar's Membership Records Office. I received a message stating that the email was undeliverable and the fax could not be transmitted. Please update your contact information with the Membership Records Office immediately. You are reminded that you are required to update the Membership Records Office within ten (10) days of any change in your contact information.

Sincerely,

May Ling Fernandez | Probation Deputy

Office of Probation

The State Bar of California | 845 S. Figueroa St. | Los Angeles, CA 90017

213.765.1035 | May.Fernandez@calbar.ca.gov

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recipient or are authorized to receive information for the intended recipient, you may not use, copy, or disclose

the message in whole or in part. If you have received this message in error, please advise the sender by reply

e-mail and delete all copies of the message. Thank you.



DEAR MEMBER AND/OR COUNSEL:

- 1. Resignation Form.** The attached form for resignation with charges pending contains the language required by rule 9.21(b), California Rules of Court. See rule 5.420, Rules of Procedure of the State Bar, for a definition of when charges are pending. **To resign with charges pending, the resignation may be submitted to the State Bar Court at 845 South Figueroa Street, Los Angeles, California 90017-2515 (tel.: 213-765-1400), or the resignation may be delivered to the Office of the Chief Trial Counsel which will transmit it to the State Bar Court.**
- 2. Acceptance of Resignations by Supreme Court upon Recommendation by State Bar Court; Authorization for Public Disclosure of Information.** The Supreme Court does not automatically accept resignations, but bases its decision upon the recommendation of the State Bar Court. The Supreme Court will normally reject resignation unless the resigning member reaches an agreement with the Office of the Chief Trial Counsel on a written stipulation as to facts and conclusions of law regarding the disciplinary matters and proceedings pending against the member at the time of the resignation. In deciding whether to recommend that a resignation be accepted, the State Bar Court considers all pending charges, proceedings and investigations involving the member. The Office of the Chief Trial Counsel therefore requests that resigning members execute the attached authorization for public disclosure of information concerning pending complaints, investigations and proceedings not otherwise public. In the absence of such a waiver, the Office of the Chief Trial Counsel will oppose the acceptance of the resignation.
- 3. Rule 9.20 Compliance.** Resigning members must comply with rule 9.20, California Rules of Court, and submit a declaration of compliance to the State Bar Court (rule 9.21(a), Cal Rule of Ct.). Attached is the rule 9.20 Compliance Declaration form approved by the State Bar Court Executive Committee. The rule 9.20 Compliance Declaration must be accompanied by proof of service on the Office of Probation at the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017. (See rule 5.332, Rules Proc. State Bar). Failure to comply with Rule 9.20 is one ground for rejection of a resignation by the Supreme Court.
- 4. Applicable Statute and Rules.** Included are applicable provisions of the California Rules of Court, the Rules of Procedure of the State Bar of California and the State Bar Act, specifically, the provisions applicable to costs (rules 5.129-5.134, Rules Proc. State Bar), resignation with disciplinary charges pending (rules 9.20-9.21, Cal. Rules of Court; rules 5.420-5.427, Rules Proc. State Bar), reinstatement (rule 5.440-5.446, rules Proc. State Bar), membership in the State Bar (Bus. & Prof. Code §§ 6002-6005), and unlawful practice of law (Bus. & Prof. Code §§ 6125-6127), and cessation of law practice (Bus. & Prof. Code §§ 6180-6185).

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STATE BAR COURT

Counsel for Respondent	For Court's Use Only:
In the Matter of:	Case Number:
Applicant for Resignation With Charges Pending	RESIGNATION WITH CHARGES PENDING

I, _____, against whom charges are pending, hereby resign as a member of the State Bar of California and relinquish all right to practice law in the State of California. I agree that, in the event this resignation is accepted and I later file a petition for reinstatement, the State Bar will consider in connection therewith all disciplinary matters and proceedings against me at the time this resignation is accepted, in addition to other appropriate matters. I also agree that the Supreme Court may decline to accept my resignation unless I reach agreement with the Chief Trial Counsel on a written stipulation as to facts and conclusions of law regarding the disciplinary matter and proceedings that were pending against me at the time of my resignation. I further agree that, on the filing of this resignation by the Office of the Clerk, State Bar Court, I will be transferred to inactive membership of the State Bar. On such transfer, I acknowledge that I will be ineligible to practice law or to advertise or hold myself out as practicing or as entitled to practice law. I further agree that within 30 days of the filing of this resignation by the Office of the Clerk, State Bar Court, I shall perform the acts specified in rule 9.20(a)-(b) of the California Rules of Court; and within 40 days of the date of filing of this resignation by the Office of the Clerk, State Bar Court, I will notify that Office as specified in Rule 9.20(c) of the California Rules of Court.

Dated: _____ Signature: _____

STATE BAR COURT

Counsel for Respondent	For Court's Use Only:
In the Matter of:	Case Number: AUTHORIZATION FOR PUBLIC DISCLOSURE CONCERNING PENDING COMPLAINTS, INVESTIGATIONS AND PROCEEDINGS
Applicant for Resignation With Charges Pending	

I, _____, who has submitted a resignation with disciplinary charges pending have been advised of the following:

1. The Office of the Chief Trial Counsel (OCTC) must submit a report to the Review Department of the State Bar Court containing a recommendation as to whether my resignation should be accepted (rule 5.427(C), Rules of Procedure of the State Bar).
2. As part of the report, OCTC must either (1) submit a stipulation as to facts and conclusions of law regarding "...any disciplinary complaints, investigations or proceedings that are pending..." against me or (2) report the fact that the parties have been unable to enter a stipulation and the reasons therefore (rule 5.427(B)&(C), Rules of Procedure of the State Bar).
3. At the time my resignation is considered, certain of the complaints, investigations or proceedings may not be a matter of public record.

I hereby authorize OCTC—in any report, supplemental report or stipulation that it files with the State Bar Court in connection with its consideration of my resignation—to disclose all information concerning complaints, investigations and proceedings that are now pending against me or may become pending against me in the future. This authorization shall be valid regardless of whether OCTC or the State Bar Court recommends that my resignation be accepted. I agree that OCTC's entire report and any stipulation filed with the State Bar Court shall become a matter of public record. This authorization does not waive or limit my right to file a response to OCTC's report (see rule 5.427(D) Rules of Procedure of the State Bar).

Dated: _____ Signature: _____

Counsel for Respondent	Number(s).	For Use Only:
In the Matter of		
Member of the State Bar of California	RULE 9.20 COMPLIANCE DECLARATION	

I, _____, State Bar member number _____, have been ordered to comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, as part of a suspension ordered by the State Bar Court or Supreme Court, or an order of disbarment or an order accepting my resignation by the Supreme Court.

[Answer each question by checking one box per question. If neither option is correct, attach a declaration under penalty of perjury explaining your situation.]

Within 30 days of the effective date of the order of suspension/disbarment/acceptance of resignation ("effective date"): (See rule 918(a), California Rules of Court):

1. I notified all clients and co-counsel, in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my consequent disqualification to act as an attorney after the effective date of the order of suspension/disbarment, and in those cases where I had no co-counsel, I urged the clients to seek legal advice elsewhere, calling attention to any urgency in seeking another attorney.
 - As of the date upon which the order to comply with rule 9.20 was filed, I had no clients.
2. I delivered to all clients any papers or other property to which the clients were entitled, or notified clients and co-counsel, if any, of a suitable time and place where the papers or other property could be obtained, and called attention to any urgency for obtaining the papers or other property.
 - As of the date upon which the order to comply with rule 9.20 was filed, I had no papers or other property to which clients were entitled.
3. I refunded fees paid, any part of which had not been earned.
 - As of the date upon which the order to comply with rule 9.20 was filed, I had earned all fees paid to me.
4. I notified all opposing counsel or adverse parties not represented by counsel in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my disqualification to act as an attorney after the effective date of my suspension, disbarment, or the Supreme Court's acceptance of my resignation, and filed a copy of my notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending for inclusion in its files.
 - As of the date upon which the order to comply with rule 9.20, I did not represent any clients in pending matters.
5. In the future, communications may be directed to me at the following address: _____

[If this is not your current State Bar membership address, this declaration will change your membership address.
See Bus. & Prof. Code §6002.1(b)]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at _____, California, on _____.

Wilful failure to comply with the provisions of rule 9.20 may result in revocation of probation; suspension; disbarment; denial of reinstatement; or, contempt or conviction. _____
(Signature)

(Print Name)

CALIFORNIA RULES OF COURT

Rule 9.20. Duties of disbarred, resigned, or suspended attorneys

(a) Disbarment, suspension, and resignation orders

The Supreme Court may include in an order disbaring or suspending a member of the State Bar, or accepting his or her resignation, a direction that the member must, within such time limits as the Supreme Court may prescribe:

- (1) Notify all clients being represented in pending matters and any co-counsel of his or her disbarment, suspension, or resignation and his or her consequent disqualification to act as an attorney after the effective date of the disbarment, suspension, or resignation, and, in the absence of co-counsel, also notify the clients to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney or attorneys;
- (2) Deliver to all clients being represented in pending matters any papers or other property to which the clients are entitled, or notify the clients and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property;
- (3) Refund any part of fees paid that have not been earned; and
- (4) Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of the disbarment, suspension, or resignation and consequent disqualification to act as an attorney after the effective date of the disbarment, suspension, or resignation, and file a copy of the notice with the court, agency, or tribunal before which the litigation is pending for inclusion in the respective file or files.

(b) Notices to clients, co-counsel, opposing counsel, and adverse parties

All notices required by an order of the Supreme Court or the State Bar Court under this rule must be given by registered or certified mail, return receipt requested, and must contain an address where communications may be directed to the disbarred, suspended, or resigned member.

(c) Filing proof of compliance

Within such time as the order may prescribe after the effective date of the member's disbarment, suspension, or resignation, the member must file with the Clerk of the State Bar Court an affidavit showing that he or she has fully complied with those provisions of the order entered under this rule. The affidavit must also specify an address where communications may be directed to the disbarred, suspended, or resigned member.

(d) Sanctions for failure to comply

A disbarred or resigned member's willful failure to comply with the provisions of this rule is a ground for denying his or her application for reinstatement or readmission. A suspended member's willful failure to comply with the provisions of this rule is a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.

Rule 9.21. Resignations of members of the State Bar with disciplinary charges pending

(a) General provisions

A member of the State Bar against whom disciplinary charges are pending may tender a written resignation from membership in the State Bar and relinquishment of the right to practice law. The written resignation must be signed and dated by the member at the time it is tendered and must be tendered to the Office of the Clerk, State Bar Court, 845 South Figueroa Street, Los Angeles, California 90017. The resignation must be substantially in the form specified in (b) of this rule. In submitting a resignation under this rule, a member of the State Bar agrees to be transferred to inactive membership in the State Bar effective on the filing of the resignation by the State Bar. Within 30 days after filing of the resignation, the member must perform the acts specified in rule 9.20(a)(1)-(4) and (b) and within 40 days after filing of the resignation, the member must file with the Office of the Clerk, State Bar Court, at the above address, the proof of compliance specified in rule 9.20(c). No resignation is effective unless and until it is accepted by the Supreme Court after consideration and recommendation by the State Bar Court.

(b) Form of resignation

The member's written resignation must be in substantially the following form:

"I, *[name of member]*, against whom charges are pending, hereby resign as a member of the State Bar of California and relinquish all right to practice law in the State of California. I agree that, in the event that this resignation is accepted and I later file a petition for reinstatement, the State Bar will consider in connection therewith all disciplinary matters and proceedings against me at the time this resignation is accepted, in addition to other appropriate matters, I also agree that the Supreme Court may decline to accept my resignation unless I reach agreement with the Chief Trial Counsel on a written stipulation as to facts and conclusions of law regarding the disciplinary matters and proceedings that were pending against me at the time of my resignation. I further agree that, on the filing of this resignation by the Office of the Clerk, State Bar Court, I will be transferred to inactive membership of the State Bar. On such transfer, I acknowledge that I will be ineligible to practice law or to advertise or hold myself out as practicing or as entitled to practice law. I further agree that, within 30 days of the filing of the resignation by the Office of the Clerk, State Bar Court, I will perform the acts specified in rule 9.20(a)-(b) of the California Rules of Court, and within 40 days of the date of filing of this resignation by the Office of the Clerk, State Bar Court, I will notify that office as specified in rule 9.20(c) of the California Rules of Court."

(c) Consideration of resignation by State Bar Court and Supreme Court

When the Office of the Clerk of the State Bar Court receives a member's resignation tendered in conformity with this rule, it must promptly file the resignation. The State Bar Court must thereafter consider the member's resignation and the stipulated facts and conclusions of law, if any, agreed upon between the member and the Chief Trial Counsel, and must recommend to the Supreme Court whether the resignation should be accepted. The State Bar Court's recommendation must be made in light of the grounds set forth in subsection (d) of this rule and, if the State Bar Court recommends acceptance of the resignation notwithstanding the existence of one or more of the grounds set forth in subsection (d), the State Bar Court's recommendation must include an explanation of the reasons for the recommendation that the resignation be accepted. The Office of the Clerk of the State Bar Court must transmit to the Clerk of the Supreme Court, three certified copies of the State Bar Court's recommendation together with the member's resignation, when, by the terms of the State Bar Court's recommendation, the resignation should be transmitted to the Supreme Court.

(d) Grounds for rejection of resignation by the Supreme Court

The Supreme Court will make such orders concerning the member's resignation as it deems appropriate. The Supreme Court may decline to accept the resignation based on a report by the State Bar Court that:

- (1) Preservation of necessary testimony is not complete;
- (2) After transfer to inactive status, the member has practiced law or has advertised or held himself or herself out as entitled to practice law;
- (3) The member has failed to perform the acts specified by rule 9.20(a)-(b);
- (4) The member has failed to provide proof of compliance as specified in rule 9.20(c);
- (5) The Supreme Court has filed an order of disbarment as to the member;
- (6) The State Bar Court has filed a decision or opinion recommending the member's disbarment;
- (7) The member has previously resigned or has been disbarred and reinstated to the practice of law;
- (8) The member and the Chief Trial Counsel have not reached agreement on a written stipulation as to facts and conclusions of law regarding the disciplinary matters and proceedings that were pending against the member at the time the resignation was tendered; or
- (9) Acceptance of the resignation of the member will reasonably be inconsistent with the need to protect the public, the courts, or the legal profession

New Rules Effective January 1, 2011:

Rule 5.129 Certification and Assessment of Costs

- (A) **Payment of Proceeding's Costs.** Under Business and Professions Code § 6086.10, a member who receives a public reproof or greater level of discipline must pay the costs of the disciplinary proceeding based upon cost certificates submitted by the Office of the Chief Trial Counsel or the Office of Probation and of the State Bar Court.
- (B) **Cost Certificates Submitted with Record.** If the record of the State Bar proceedings sent to the Supreme Court contains a recommendation of suspension, disbarment, or acceptance of a member's resignation with disciplinary charges pending, the cost certificates of the Office of the Chief Trial Counsel or the Office of Probation and of the State Bar Court must accompany it.
- (C) **Culpability and Award of Costs.** If the Court finds a member culpable in a matter, it will award costs to the State Bar. A member is found culpable in a matter if the State Bar Court decides that the member violated at least one rule or statute at issue in that matter.
- (D) **"Matter" Defined.** —Matter|| includes:
- (1) a separate investigation opened by the Office of the Chief Trial Counsel against a member;
 - (2) a probation revocation proceeding begun by the Office of Probation; or
 - (3) a conviction proceeding.
- (E) **Resignation with Charges Pending.** If a member resigns from the practice of law while disciplinary charges are pending against the member, the Court will recommend that the State Bar recover the costs of: (1) processing the member's resignation; (2) the underlying pending disciplinary proceeding; and (3) any pending investigations that were complete when the State Bar received the member's resignation.
- (F) **Payment in Annual Installments.** If the Court's order imposing costs allows a member to pay in annual installments, the order must designate the amount of each installment, which will be added to and become a part of the member's annual membership fees.
- (G) **State Bar Court's Authority.** This rule does not limit the State Bar Court's authority to grant relief from costs under rule 5.130 and Business and Professions Code § 6086.10(c).

Rule 5.130 Order Assessing Costs Against Disciplined or Resigning Respondent

- (A) **Challenges to Costs.** Under Business and Professions Code § 6086.10(b), a member may challenge the propriety of including items in the certificate of costs or the calculation of properly included costs. But the member may not challenge the State Bar's determination of —reasonable costs|| under Business and Professions Code § 6086.10(b)(3).

- (B) **Motion for Relief from Complying or Extension of Time to Comply.** If costs have been assessed against a member under rule 5.129, the member may move for relief, in whole or in part, from the order assessing costs, for an extension of time to pay costs, or for the compromise of a judgment obtained under Business and Professions Code § 6086.10(a) on grounds of hardship, special circumstances, or other good cause. The motion must be served on the Office of the Chief Trial Counsel under rule 5.26. If the motion is based, in whole or in part, on financial hardship, it must be filed as soon as practicable after the circumstances giving rise to the financial hardship become known and be accompanied by the member's completed financial statement in the form prescribed by the Court. Otherwise, the motion may be filed within 30 days after the effective date of a public reproof by the State Bar Court or the filing of a Supreme Court order assessing costs. The motion must include the date the costs were originally ordered to be paid.
- (C) **Response to Motion.** The Office of the Chief Trial Counsel may file and serve a response to the motion within 20 days after the motion is served.
- (D) **Hearing.** No hearing on the motion is required. A hearing will be held only if the Court, in its discretion, determines that it will materially contribute to the consideration of the motion.
- (E) **Review.** An order of the Court on the motion is reviewable only under rule 5.150 and on grounds of error of law or abuse of discretion.

Rule 5.131 Award of Costs to Respondent Exonerated of All Charges After Trial

- (A) **Motion for Costs.** If a member in a disciplinary proceeding is exonerated of all charges, the member may move for reimbursement of costs under Business and Professions Code § 6086.10(d). Exoneration may occur following trial in the Hearing Department, or, after review, by decision of the Review Department or by decision or order of the Supreme Court.
- (B) **Reasonable Expenses.** Under Business and Professions Code § 6086.10(d), only the following items are reasonable hearing preparation expenses:
- (1) taking, videotaping, and transcribing necessary depositions – including an original and one copy of depositions taken by the member and one copy of depositions taken by the State Bar – and travel expenses to attend depositions;
 - (2) service of process by a public officer, registered process server, or other means under Code of Civil Procedure § 1033.5(a)(4);
 - (3) ordinary witness fees – but not expert witness fees – under Government Code § 68093;
 - (4) models and blowups of exhibits and photocopies of exhibits (if, in the Court's discretion, they were reasonably helpful to the Court as the trier of fact);
 - (4) transcripts of Court proceedings ordered by the Court;
 - (5) copies of the State Bar Court Clerk's audiotape recordings of the proceeding in which the hearing is held;

- (6) investigation expenses incurred to prepare the case for hearing after filing the notice of disciplinary charges (if, in the Court's discretion, the expenses were reasonably necessary);
 - (7) computerized legal research (if, in the Court's discretion, the research was reasonably required by the issues involved in the hearing and other less expensive means of research were not reasonably available); and
 - (8) photocopying (except exhibits), postage, and telephone and fax transmission charges (capped at \$150 for the entire proceeding).
- (C) Expenses of Seeking Reimbursement. An exonerated member cannot recover costs incurred in seeking reimbursement.
- (D) "Exoneration" Defined. Under Business and Professions Code § 6086.10(d) —exonerated of all charges|| means the Court found the member not culpable of the charged misconduct and dismissed the entire proceeding with prejudice. A member is not —exonerated of all charges|| if the Court imposes an admonition.
- (E) Time to File Motion and Response. A motion for reimbursement of costs must be filed within 30 days after service of the final ruling exonerating the member of all charges after all proceedings in the matter end, including any Supreme Court review. Appropriate documentation of the costs for which reimbursement is requested must accompany the motion. A response may be filed within 20 days after it is served.
- (F) Hearing. The motion will be decided by the hearing judge who was assigned to the underlying proceeding. If there is no such judge or that judge is unavailable or disqualified, the motion will be assigned to another hearing judge. A hearing will be held only if the Court, in its discretion, determines that it will materially contribute to the consideration of the motion.
- (G) Decision. The judge will decide the motion by written order, and may grant or deny the motion, in whole or in part. The judge will determine the reasonable expenses to be reimbursed.
- (H) Review. A party may file a petition for review under rule 5.150 within 15 days after the order on the motion is served.

Rule 5.132 Stipulating to Relief from Payment of Costs or Extension of Time to Pay Costs

By written stipulation approved by the Court, the Chief Trial Counsel may relieve the member, in whole or in part, from the obligation to pay the costs of disciplinary proceedings, or, with the approval of the Court, may agree to extend the time to pay these costs on grounds of hardship, special circumstances, or other good cause.

Rule 5.133 Approval of Agreements to Compromise Judgments for Client Security Fund Payments and Assessments

- (A) Application to Compromise Judgment. If judgment has been entered under California Rules of Court, rule 9.23 and Business and Professions Code § 6140.5 against a member, that member and the State Bar may agree to compromise that judgment. The member must apply to the State Bar Court for approval of the proposed agreement. The application and any supporting documents must be served on the Office of the Chief Trial Counsel under rule 5.25.
- (B) Response to Application. The Office of the Chief Trial Counsel may file and serve a response to the application within 20 days after the application is served.
- (C) Hearing. No hearing on the application is required. A hearing will be held only if the Court, in the exercise of its discretion, determines that it will materially contribute to the consideration of the application.
- (D) Review. An order of the Court on the application under this rule is reviewable only under rule 5.150 and on grounds of error of law or abuse of discretion.

Rule 5.134 Effect of Default on Installment Payments

In any disciplinary recommendation or order providing for installment payments of discipline costs or restitution, the Court must recommend or order that if the member fails to timely make any installment payment, the unpaid balance is due and payable immediately unless relief is granted under these rules.

Chapter 2. Resignation Proceedings

Rule 5.420 Resignation with Charges Pending

California Rules of Court, rule 9.21, governs resignations with charges pending. A resignation must be in the form required by rule 9.21(b). Charges are pending when the member is the subject of an investigation by the Office of Investigations or a disciplinary proceeding under these rules, or when the member is the subject of a criminal charge or investigation, or has been convicted of a felony or misdemeanor.

Rule 5.421 Perpetuation of Evidence

When a resignation is filed with the State Bar Court, the Office of the Chief Trial Counsel may perpetuate testimony and documentary evidence about the member's conduct that is pertinent to any future inquiry into the member's conduct or qualification to practice law.

Rule 5.422 Notice of Intent to Perpetuate Evidence

Within 30 days after the member's resignation with charges pending is filed, the Office of the Chief Trial Counsel may file and serve a notice of intent to perpetuate evidence. The notice must contain an estimate of the time required to complete perpetuation.

Rule 5.423 Perpetuation Procedure

- (A) Beginning. After filing a notice of intent to perpetuate, the Office of the Chief Trial Counsel may begin perpetuating the evidence.
- (B) Perpetuation Process. Evidence is perpetuated by obtaining depositions or stipulations as to facts. The member may not take any witness's deposition except by order of the Court for good cause shown. Good cause is established when a witness is a person whose testimony should be taken in the interest of justice and when such action is consistent with the limited purpose of perpetuation.
- (C) Motions; Status Reports. When a motion arising in the course of perpetuation is filed, a hearing judge will be assigned to rule on the motion. In addition to ruling on the motion, the hearing judge may set status conferences or require status reports to monitor the progress of the perpetuation.

Rule 5.424 Report of Completion

When perpetuation is complete, the Office of the Chief Trial Counsel must file and serve on the member a notice that perpetuation is complete. On request and at the member's expense, the member may obtain a copy of the evidence perpetuated from the Office of the Chief Trial Counsel.

Rule 5.425 Use of Perpetuated Evidence

Subject to rule 5.104, the evidence perpetuated may be admitted in evidence in any future proceeding pertaining to the member's conduct or qualifications to practice law. But the Office of the Chief Trial Counsel may introduce deposition testimony as permitted under Code of Civil Procedure § 2025.620(c) without showing that any enumerated factor is present.

Rule 5.426 Inapplicable Rules

The following rules do not apply in proceedings on resignations with charges pending and perpetuation of evidence:

- (A) General. Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) Specific. Rule 5.25 (service of initial pleadings); rule 5.42 (motions which extend time to file response); rules 5.50-5.52 (abatement); rules 5.80-5.100 (default; obligation to appear at trial); rules 5.101-5.114 (pretrial, trial, evidence, decision, post-trial motions); rules 5.120-5.127 (dispositions); and rules 5.151-5.157 (review).

Rule 5.427 Procedure for Consideration and Transmittal of Resignations with Disciplinary Charges Pending

- (A) Filing and Serving Resignation. The written resignation of a member against whom disciplinary charges are pending must be submitted to the Clerk of the State Bar Court in Los

Angeles. The Clerk will file the resignation if it is dated, bears the member's signature, and is in the form required by California Rules of Court, rule 9.21(b). When the resignation is filed, the Clerk will serve a copy on the Office of the Chief Trial Counsel.

- (B) Stipulation regarding Pending Investigations, Complaints or Proceedings. Within 60 days from the date the resignation is filed, the member and the Office of the Chief Trial Counsel must enter into a written stipulation as to facts and conclusions of law regarding any disciplinary complaints, investigations or proceedings that are pending against the member at the time his or her resignation was filed. If the member and the Office of the Chief Trial Counsel have not entered into such stipulation, the Office of the Chief Trial Counsel must report that fact and the reasons therefore to the Review Department in its report under subsection (C).
- (C) Report by the Office of the Chief Trial Counsel. Within 60 days from the date the resignation is filed, the Office of the Chief Trial Counsel must file with the Review Department and serve upon the member pursuant to rule 5.25, a report setting forth the extent, if any, to which any of the factors enumerated in rule 9.21(d) of the California Rules of Court are present and whether, in light of the application of those factors, the member's resignation should be accepted.
- (D) Response to Report. Within 30 days of service of the Office of the Chief Trial Counsel's report, the member may file a response with the Review Department and must serve it on the Office of the Chief Trial Counsel.
- (E) Decision or Order. Within 30 days of the filing of the member's response to the Office of the Chief Trial Counsel's report or the expiration of the period for filing such response, whichever occurs first, the Review Department will file an order or decision pursuant to rule 9.21(c) of the California Rules of Court recommending, in light of the factors enumerated in rule 9.21(d), whether the member's resignation should be accepted by the Supreme Court and the reasons for the Review Department's recommendation.
- (F) Transmittal of Resignation. Within 15 days of the filing of the Review Department's order regarding the member's resignation, the Clerk of the State Bar Court shall transmit the member's resignation to the Clerk of the Supreme Court, together with the Review Department's order or decision regarding acceptance or rejection of the resignation.

Chapter 3. Reinstatement Proceedings

Rule 5.440 Beginning Proceeding

- (A) Applicability of Rules. These rules apply to proceedings for reinstatement to membership in the State Bar after resignation with or without charges pending and after disbarment.
- (B) Petition. The party seeking reinstatement begins the reinstatement proceeding by filing and serving a petition for reinstatement and paying the required fee.

Rule 5.441 Filing Requirements

- (A) **Filing Petition and Disclosure Statement.** A petitioner must complete and verify a petition and disclosure statement on the forms approved by the Court and in compliance with the instructions therein. The original and three copies of the petition must be filed with the Clerk of the State Bar Court. The disclosure statement is not filed with the Court but must be served on the Office of the Chief Trial Counsel.
- (B) **Pre-Filing Requirements and Proof.** Prior to filing the petition, the petitioner must satisfy the following requirements and must attach proof of compliance to the petition:
- (1) **Fingerprints Submitted.** Under Business and Professions Code § 6054, the petitioner must have submitted fingerprints to the California Department of Justice via Live Scan technology, or if the petitioner resides outside the state, two sets of original fingerprints on record cards furnished by the State Bar must have been submitted to the Office of the Chief Trial Counsel;
 - (2) **Discipline Costs Paid and Client Security Fund Payments Reimbursed.** Petitioner must have paid all discipline costs imposed under § 6086.10(a) and reimbursed all payments made by the Client Security Fund as a result of the petitioner's conduct, plus applicable interest and costs, under Business and Professions Code § 6140.5(c).
 - (3) **Passage of the Attorneys' Examination.**
 - (a) **Resigned with Charges Pending or Disbarred.** Petitioners who resigned with charges pending or who were disbarred must establish that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners within three years prior to the filing of the petition for reinstatement.
 - (b) **Resigned without Charges Pending.** Petitioners who resigned without charges pending more than five years before filing the petition for reinstatement must establish that they have taken and passed the Attorneys' Examination administered by the Committee of Bar Examiners within five years prior to the filing of the application for readmission or reinstatement.
- (C) **Filing Fee.** The petition must include a filing fee of \$1,600, which will be given to the Office of the Chief Trial Counsel to defray incurred costs. The Clerk will reject the petition for filing if the fee is not included.
- (D) **Service.** The petition and disclosure statement must be served on the Office of the Chief Trial Counsel under rule 5.25.
- (E) **Dismissal.** Failure to comply with any of the requirements of this rule will be grounds to dismiss the petition.

Rule 5.442 Earliest Time for Filing Reinstatement Petition

- (A) Filing after Resignation without Charges Pending. After resignation without charges pending, a first or subsequent petition for reinstatement may be filed at any time.
- (B) Filing after Resignation with Charges or Disbarment. Except as provided in the order of disbarment, no petition for reinstatement will be filed within five years after the effective date of the petitioner's disbarment, interim suspension following a disbarment recommendation, or interim suspension following criminal conviction, or the filing date of the petitioner's resignation with charges pending, whichever occurred earliest. No petitioner who has been disbarred by the Supreme Court on two previous occasions may apply for reinstatement.
- (C) Subsequent Petitions. If a petitioner received an adverse decision on a prior petition following disbarment or resignation with charges pending, a subsequent petition cannot be filed for two years after the effective date of the adverse decision, unless a shorter period is ordered by the Court for good cause.

Rule 5.443 Investigation and Discovery

- (A) Investigation. For 120 days after the petition is filed with the Court, the Office of the Chief Trial Counsel will investigate the petition to determine whether to oppose it. For good cause, the Court may extend the investigation period.
- (B) Response to Petition. Within 20 days after the investigation period ends, the Office of the Chief Trial Counsel will file and serve a response to the petition stating, for each issue set forth in rule 5.445 (A) or (B), whether it opposes the petition. If it opposes the petition, the Office of the Chief Trial Counsel will state in its response its grounds for opposition.
- (C) Discovery. Except as set forth in subsection (D), after the investigation ends, discovery may be conducted under rule 5.65. Requests for discovery must be made within 15 days after service of the Office of the Chief Trial Counsel's response.
- (D) Petitioner's Deposition. The Office of the Chief Trial Counsel may take the petitioner's deposition. It must be held no later than 45 days after the date the response is due under subsection (B). A petitioner for reinstatement who resides outside California must appear in California at his or her own expense for his or her deposition, on 30 days' written notice of the time and place of the deposition.

Rule 5.444 Notice of Hearing; Publication

The Clerk will serve notice of the hearing on the parties. The Office of the Chief Trial Counsel may publish the fact that a petition for reinstatement has been filed with the State Bar Court, the petitioner's identity, and other relevant information identifying the proceeding.

Rule 5.445 Burden of Proof

- (A) Reinstatement after Resignation with Charges Pending or Disbarment. Petitioners for reinstatement must:
- (1) pass a professional responsibility examination within one year prior to filing the petition;
 - (2) establish their rehabilitation;
 - (3) establish present moral qualifications for reinstatement; and
 - (4) establish present ability and learning in the general law by providing proof that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners within three years prior to the filing of the petition.
- (B) Reinstatement after Resignation without Charges Pending. Petitioners for reinstatement must:
- (1) pass a professional responsibility examination within one year prior to filing the petition;
 - (2) establish their present moral qualifications for reinstatement; and
 - (3) establish present ability and learning in the general law. If the petitioner resigned without charges pending more than five years before filing the petition, the petitioner must establish present ability and learning in the general law by providing proof that he or she has taken and passed the Attorneys' Examination administered by the Committee of Bar Examiners within five years prior to the filing of the petition.

Rule 5.446 Inapplicable Rules.

The following rules do not apply in a reinstatement proceeding:

- (A) General. Rules that by their terms apply only to disciplinary proceedings or to other specific proceedings, and
- (B) Specific. Rules 5.80-5.100 (default; obligation to appear at trial) and rules 5.105-5.108 (admission of certain evidence).

**CALIFORNIA BUSINESS AND PROFESSIONS CODE
PROVISIONS OF THE STATE BAR ACT**

§6002. Members

The members of the State Bar are all persons admitted and licensed to practice law in this State except justices and judges of courts of record during their continuance in office.

§6002.1 Official Membership Records

- (a) A member of the State Bar shall maintain all of the following on the official membership records of the State Bar:
- (1) The member's current office address and telephone number or, if no office is maintained, the address to be used for State Bar purposes or purposes of the agency charged with attorney discipline.
 - (2) All specialties in which the member is certified.
 - (3) Any other jurisdictions in which the member is admitted and the dates of his or her admission.
 - (4) The jurisdiction, and the nature and date of any discipline imposed by another jurisdiction, including the terms and conditions of any probation imposed, and, if suspended or disbarred in another jurisdiction, the date of any reinstatement in that jurisdiction.
 - (5) Any other information as may be required by agreement with or by conditions of probation imposed by the agency charged with attorney discipline.

A member shall notify the membership records office of the State Bar of any change in the information required by paragraphs (1), (4), and (5) within 30 days of any change and of the change in the information required by paragraphs (2) and (3) on or before the first day of February of each year.

- (b) Every former member of the State Bar who has been ordered by the Supreme Court to comply with Rule 9.20 of the California Rules of Court shall maintain on the official records of the State Bar the former member's current address and within 10 days after any change therein, shall file a change of address with a membership records office of the State Bar until such time as the former member is no longer subject to the order.
- (c) The notice initiating a proceeding conducted under this chapter may be served upon the member or former member of the State Bar to whom it is directed by certified mail, return receipt requested, addressed to the member or former member at the latest address shown on the official membership records of the State Bar. The service is complete at the time of the mailing but any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the

United States, and 20 days if the place of address is outside the United States. A member of the State Bar or former member may waive the requirements of this subdivision and may, with the written consent of another member of the State Bar, designate that other member to receive service of any notice or papers in any proceeding conducted under this chapter.

- (d) The State Bar shall not make available to the general public the information specified in paragraph (5) of subdivision (a) unless that information is required to be made available by a condition of probation. That information is, however, available to the State Bar, the Supreme Court, or the agency charged with attorney discipline.
- (e) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

§6003. Classes of Members

Members of the State Bar are divided into two classes:

- (a) Active members.
- (b) Inactive members.

§6004. Active Members

Every member of the State Bar is an active member until as in section 6007 of this code provided or at his request, he is enrolled as an inactive member.

§6005. Inactive Members

Inactive members are those members who have requested that they be enrolled as inactive members or who have been enrolled as inactive members by action of the board of governors as in section 6007 of this code provided.

§6125. Necessity of Active Membership in State Bar

No person shall practice law in California unless the person is an active member of the State Bar.

§6126. Unauthorized Practice or Advertising as a Crime

- (a) Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is guilty of a misdemeanor punishable by up to one year in a county jail or by a fine of up to one thousand dollars (\$1,000), or by both that fine and imprisonment. Upon a second or subsequent conviction, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes

only a fine or a sentence of less than 90 days for a second or subsequent conviction under this subdivision, the court shall state the reasons for its sentencing choice on the record.

- (b) Any person who has been involuntarily enrolled as an inactive member of the State Bar, or has been suspended from membership from the State Bar, or has been disbarred, or has resigned from the State Bar with charges pending, and thereafter practices or attempts to practice law, advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or a county jail. However, any person who has been involuntarily enrolled as an inactive member of the State Bar pursuant to paragraph (1) of subdivision (e) of Section 6007 and who knowingly thereafter practices or attempts to practice law, or advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or a county jail.
- (c) The willful failure of a member of the State Bar, or one who has resigned or been disbarred, to comply with an order of the Supreme Court to comply with Rule 9.20 of the California Rules of Court, constitutes a crime punishable by imprisonment in the state prison or a county jail.
- (d) The penalties provided in this section are cumulative to each other and to any other remedies or penalties provided by law.

§6126.3 Authority of Courts; Assumption of Jurisdiction Over Practices of Persons Who Advertise or Hold Themselves Out as Entitled to Practice Law but are Not Members of the State Bar or Otherwise Authorized to Practice Law

- (a) In addition to any criminal penalties pursuant to Section 6126 or to any contempt proceedings pursuant to Section 6127, the courts of the state shall have the jurisdiction provided in this section when a person advertises or holds himself or herself out as practicing or entitled to practice law, or otherwise practices law, without being an active member of the State Bar or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so.
- (b) The State Bar, or the superior court on its own motion, may make application to the superior court for the county where the person described in subdivision (a) maintains or more recently has maintained his or her principal office for the practice of law or where he or she resides, for assumption by the court of jurisdiction over the practice to the extent provided in this section. In any proceeding under this section, the State Bar shall be permitted to intervene and to assume primary responsibility for conducting the action.
- (c) An application made pursuant to subdivision (b) shall be verified, and shall state facts showing all of the following:
 - (1) Probable cause to believe that the facts set forth in subdivision (a) of Section 6126 have occurred.
 - (2) The interest of the applicant.

- (3) Probable cause to believe that the interests of a client or of an interested person or entity will be prejudiced if the proceeding is not maintained.
- (d) The application shall be set for hearing, and an order to show cause shall be issued directing the person to show cause why the court should not assume jurisdiction over the practice as provided in this section. A copy of the application and order to show cause shall be served upon the person by personal delivery or, as an alternate method of service, by certified or registered mail, return receipt requested, addressed to the person either at the address at which he or she maintains, or more recently has maintained, his or her principal office or at the address where he or she resides. Service is complete at the time of mailing, but any prescribed period of notice and any right or duty to do any act or make any response within that prescribed period or on a date certain after notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the State Bar is not the applicant, copies shall also be served upon the Office of the Chief Trial Counsel of the State Bar in similar manner at the time of service on the person who is the subject of the application. The court may prescribe additional or alternative methods of service of the application and order to show cause, and may prescribe methods of notifying and serving notices and process upon other persons and entities in cases not specifically provided herein.
- (e) If the court finds that the facts set forth in subdivision (a) of Section 6126 have occurred and that the interests of a client or an interested person or entity will be prejudiced if the proceeding provided herein is not maintained, the court may make an order assuming jurisdiction over the person's practice pursuant to this section. If the person to whom the order to show cause is directed does not appear, the court may make its order upon the verified application or upon such proof as it may require. Thereupon, the court shall appoint one or more active members of the State Bar to act under its direction to mail a notice of cessation of practice, pursuant to subdivision (g), and may order those appointed attorneys to do one or more of the following:
 - (1) Examine the files and records of the practice and obtain information as to any pending matters that may require attention.
 - (2) Notify persons and entities who appear to be clients of the person of the occurrence of the event or events stated in subdivision (a) of Section 6126, and inform them that it may be in their best interest to obtain other legal counsel.
 - (3) Apply for an extension of time pending employment of legal counsel by the client.
 - (4) With the consent of the client, file notices, motions, and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained.
 - (5) Give notice to the depositor and appropriate persons and entities who may be affected, other than clients, of the occurrence of the event or events.

- (6) Arrange for the surrender or delivery of clients' papers or property.
 - (7) Arrange for the appointment of a receiver, where applicable, to take possession and control of any and all bank accounts relating to the affected person's practice.
 - (8) Do any other acts that the court may direct to carry out the purposes of this section. The court shall have jurisdiction over the files and records and over the practice of the affected person for the limited purposes of this section, and may make all orders necessary or appropriate to exercise this jurisdiction. The court shall provide a copy of any order issued pursuant to this section to the Office of the Chief Trial Counsel of the State Bar.
- (f) Anyone examining the files and records of the practice of the person described in subdivision (a) shall observe any lawyer-client privilege under Sections 950 and 952 of the Evidence Code and shall make disclosure only to the extent necessary to carry out the purposes of this section. That disclosure shall be a disclosure that is reasonably necessary for the accomplishment of the purpose for which the person described in subdivision (a) was consulted. The appointment of a member of the State Bar pursuant to this section shall not affect the lawyer-client privilege, which privilege shall apply to communications by or to the appointed members to the same extent as it would have applied to communications by or to the person described in subdivision (a).
 - (g) The notice of cessation of law practice shall contain any information that may be required by the court, including, but not limited to, the finding by the court that the facts set forth in subdivision (a) of Section 6126 have occurred and that the court has assumed jurisdiction of the practice. The notice shall be mailed to all clients, to opposing counsel, to courts and agencies in which the person has pending matters with an identification of the matter, to the Office of the Chief Trial Counsel of the State Bar, and to any other person or entity having reason to be informed of the court's assumption of the practice.
 - (h) Nothing in this section shall authorize the court or an attorney appointed by it pursuant to this section to approve or disapprove of the employment of legal counsel, to fix terms of legal employment, or to supervise or in any way undertake the conduct of the practice, except to the limited extent provided by paragraphs (3) and (4) of subdivision (e).
 - (i) Unless court approval is first obtained, neither the attorney appointed pursuant to this section, nor his or her corporation, nor any partner or associate of the attorney shall accept employment as an attorney by any client of the affected person on any matter pending at the time of the appointment. Action taken pursuant to paragraphs (3) and (4) of subdivision (e) shall not be deemed employment for purposes of this subdivision.
 - (j) Upon a finding by the court that it is more likely than not that the application will be granted and that delay in making the orders described in subdivision (e) will result in substantial injury to clients or to others, the court, without notice or upon notice as it shall prescribe, may make interim orders containing any provisions that the court deems appropriate under the circumstances. Such an interim order shall be served in the manner provided in subdivision (d) and, if the application and order to show cause have not yet

been served, the application and order to show cause shall be served at the time of serving the interim order.

- (k) No person or entity shall incur any liability by reason of the institution or maintenance of a proceeding brought under this section. No person or entity shall incur any liability for an act done or omitted to be done pursuant to order of the court under this section. No person or entity shall be liable for failure to apply for court jurisdiction under this section. Nothing in this section shall affect any obligation otherwise existing between the affected person and any other person or entity.
- (l) An order pursuant to this section is not appealable and shall not be stayed by petition for a writ, except as ordered by the superior court or by the appellate court.
- (m) A member of the State Bar appointed pursuant to this section shall serve without compensation. However, the member may be paid reasonable compensation by the State Bar in cases where the State Bar has determined that the member has devoted extraordinary time and services that were necessary to the performance of the member's duties under this article. All payments of compensation for time and services shall be at the discretion of the State Bar. Any member shall be entitled to reimbursement from the State Bar for necessary expenses incurred in the performance of the member's duties under this article. Upon court approval of expenses or compensation for time and services, the State Bar shall be entitled to reimbursement therefor from the person described in subdivision (a) or his or her estate.

§6126.4. Authority of Courts to Assume Jurisdiction Extends to Immigration Consultants

Section 6126.3 shall apply to a person acting in the capacity of an immigration consultant pursuant to Chapter 19.5 (commencing with Section 22440) who advertises or holds himself or herself out as practicing or entitled to practice law, or otherwise practices law.

§6126.5. Relief

- (a) In addition to any remedies and penalties available in any enforcement action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney, acting as a public prosecutor, the court shall award relief in the enforcement action for any person who obtained services offered or provided in violation of Section 6125 or 6126 or who purchased any goods, services, or real or personal property in connection with services offered or provided in violation of Section 6125 or 6126 against the person who violated Section 6125 or 6126, or who sold goods, services, or property in connection with that violation. The court shall consider the following relief:
 - (1) Actual damages.
 - (2) Restitution of all amounts paid.
 - (3) The amount of penalties and tax liabilities incurred in connection with the sale or transfer of assets to pay for any goods, services, or property.

- (4) Reasonable attorney's fees and costs expended to rectify errors made in the unlawful practice of law.
 - (5) Prejudgment interest at the legal rate from the date of loss to the date of judgment.
 - (6) Appropriate equitable relief, including the rescission of sales made in connection with a violation of law.
- (b) The relief awarded under paragraphs (1) to (6), inclusive, of subdivision (a) shall be distributed to, or on behalf of, the person for whom it was awarded or, if it is impracticable to do so, shall be distributed as may be directed by the court pursuant to its equitable powers.
 - (c) The court shall also award the Attorney General, district attorney, or city attorney reasonable attorney's fees and costs and, in the court's discretion, exemplary damages as provided in Section 3294 of the Civil Code.
 - (d) This section shall not be construed to create, abrogate, or otherwise affect claims, rights, or remedies, if any, that may be held by a person or entity other than those law enforcement agencies described in subdivision (a). The remedies provided in this section are cumulative to each other and to the remedies and penalties provided under other laws.

§6127. Contempt of Court

The following acts or omissions in respect to the practice of law are contempts of the authority of the courts:

- (a) Assuming to be an officer or attorney of a court and acting as such, without authority.
- (b) Advertising or holding oneself out as practicing or as entitled to practice law or otherwise practicing law in any court, without being an active member of the State Bar.

Proceedings to adjudge a person in contempt of court under this section are to be taken in accordance with the provisions of Title V of Part III of the Code of Civil Procedure.

§6180. Notice of Cessation; Jurisdiction of Courts

When an attorney engaged in law practice in this state dies, resigns, becomes an inactive member of the State Bar, is disbarred, or is suspended from the active practice of law and is required by the order of suspension to give notice of the suspension, notice of cessation of law practice shall be given and the courts of this state shall have jurisdiction, as provided in this article.

§6180.1 Notice; Form and Contents; Persons Notified

The notice shall contain any information that may be required by any order of disbarment, suspension, or of acceptance of the attorneys' resignation, by any rule of the Supreme Court, Judicial Council, or the State Bar, and by any order of a court of the state having jurisdiction

pursuant to this article or Article 12 (commencing with Section 6190) of this chapter. It shall be mailed to all persons who are then clients, to opposing counsel, to courts and agencies in which the attorney then had pending matters with an identification of the matter, to any errors and omissions insurer, to the Office of the Chief Trial Counsel of the State Bar and to any other person or entity having reason to be informed of the death, change of status or discontinuance or interruption of law practice. In the event of the death or incompetency of the attorney, the notice shall be given by the personal representative or guardian or conservator of the attorney or, if none, by the person having custody or control of the files and records of the attorney. In other cases, the notice shall be given by the attorney or a person authorized by the attorney or by the person having custody and control of the files and records.

§6180.2 Application for Assumption of Jurisdiction Over Law Practice; Venue

Notwithstanding the giving of notice pursuant to Section 6180.1, the superior court on its own motion, or a client of the attorney, the State Bar, or an interested person or entity may make application to the superior court for the county where the attorney maintains or more recently has maintained his or her principal office for the practice of law or where he or she resides, for assumption by the court of jurisdiction over the law practice to the extent provided in this article. In any proceeding under this article, the State Bar shall be permitted to intervene and to assume primary responsibility for conducting the action.

§6180.3 Contents and Verification of Application

The application shall be verified, and shall state facts supporting the occurrence of one or more of the events stated in section 6180 and either of the following:

- (a) Belief that supervision of the court is warranted because the attorney has left an unfinished client matter for which no other active member of the State Bar has, with the consent of the client, agreed to assume responsibility.
- (b) Belief that the interests of one or more clients of the attorney or of one or more other interested persons or entities will be prejudiced if the proceeding herein provided is not maintained.

§6180.4 Hearing on Application; Issuance of Order to Show Cause; Service

The application shall be set for hearing and an order to show cause shall be issued, directing the attorney, or his or her personal representative, or, if none, the person having custody and control of the files and records, to show cause why the court should not assume jurisdiction over the law practice as provided in the article. A copy of the application and order to show cause shall be served upon the person to whom it is directed by personal delivery or, as an alternate method of service, by certified or registered mail, return receipt requested, addressed to the attorney at the latest address shown on the official membership records of the State Bar or to the personal representative at the latest address shown in the probate proceeding. Service is complete at the time of mailing, but any prescribed period of notice and any right or duty to do any act or make any response within that prescribed period or on a date certain after notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place

of address is outside the United States. If the attorney has a guardian or conservator, copies shall also be served upon such fiduciary in similar manner. If the State Bar is not the applicant, copies shall also be served upon the Office of the Chief Trial Counsel of the State Bar in similar manner at the time of service on the attorney. The court may prescribe additional or alternative methods of service of the application and order to show cause, and may prescribe methods of notifying and serving notices and process upon other persons and entities in cases not specifically provided for herein.

§6180.5 Court Order Assuming Jurisdiction; Appointment and Duties of Attorneys

If the court finds that one or more of the events stated in Section 6180 has occurred, and that supervision of the courts is warranted because the affected attorney has left an unfinished client matter for which no other active member of the State Bar has with consent of the client agreed to assume responsibility, or that the interest of one or more of the clients of the attorney or one or more other interested persons or entities will be prejudiced if the proceeding herein provided is not maintained, it may make an order assuming jurisdiction over the attorney's practice pursuant to this article. If the person to whom the order to show cause is directed does not appear the court may make its order upon the verified application or such proof as it may require. Thereupon the court shall appoint one or more active members of the State Bar to act under its direction to mail a notice of cessation of law practice pursuant to Section 6180.1 and may order such appointed attorneys to do one or more of the following:

- (a) Examine the files and records of the law practice, and obtain information as to any pending matters which may require attention.
- (b) Notify persons and entities who appear to be clients of the attorney of the occurrence of the event or events stated in Section 6180 and inform them that it may be to their best interest to obtain other legal counsel.
- (c) Apply for an extension of time pending employment of such other counsel by the client.
- (d) With the consent of the client, file notices, motions and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained.
- (e) Give notice to the depositor and appropriate persons and entities who may be affected, other than clients, of the occurrence of such event or events.
- (f) Arrange for the surrender or delivery of clients' papers or property.
- (g) Arrange for the appointment of a receiver, where applicable, to take possession and control of any and all bank accounts relating to the affected attorney's practice of law, including the general or office account and the clients' trust account.
- (h) Do such other acts as the court may direct to carry out the purposes of this article.

The court shall have jurisdiction over the files and records and law practice of the affected attorney for the limited purposes of this section, and may make all orders necessary or

appropriate to exercise this jurisdiction. The court shall provide a copy of any order issued pursuant to this article to the Office of the Chief Trial Counsel of the State Bar

§6180.6 Limitation on Conduct of Supervised Law Practice

Nothing in this article shall authorize the court or an attorney appointed by it pursuant to this article to approve or disapprove of the employment of legal counsel, fix terms of legal employment, fix the compensation which may have been earned by the affected attorney, or supervise or in any way to undertake to conduct the law practice except to the limited extent provided by subdivisions (c) and (d) of Section 6180.5.

§6180.7 Employment of Appointed Attorney or Associates by Client of Affected Attorney

Unless court approval is first obtained, neither the attorney appointed pursuant to this article nor his corporation nor any partners or associates of the attorney shall accept employment as an attorney by any client of the affected attorney on any matter pending at the time of the appointment. Action taken pursuant to subdivisions (c) and (d) of Section 6180.5 shall not be deemed such employment.

§6180.8 Interim Orders; Service

Upon a finding by the court that it is more likely than not that the application will be granted and that delay in making the orders described in section 6180.5 will result in substantial injury to clients, or to others, the court, without notice or upon such notice as it shall prescribe, may make interim orders containing such provisions as the court deems appropriate under the circumstances. Such order shall be served in the manner provided in section 6180.4, and if the application and order to show cause have not yet been served, they shall be served at the time of serving the order made pursuant to this section.

§6180.9 Pending Proceedings in Probate, Guardianship, or Conservatorship; Subjection of Legal Representative to Orders of Court

If there is a pending proceeding in probate, guardianship, or conservatorship relating to the affected attorney, the court having jurisdiction pursuant to this article may inquire into acts done by the legal representative of the attorney concerning the law practice. Upon reasonable notice to the legal representative, the court may determine that the acts of the legal representative relating to such law practice shall be subject to its orders pursuant to this article.

§6180.10 Application of Lawyer-Client Privilege to Appointed Attorney; Disclosures

Persons examining the files and records of the law practice of the affected attorney pursuant to this article shall observe the lawyer-client privilege and shall make disclosure only to the extent necessary to carry out the purposes of this article. Such disclosure is a disclosure which is reasonably necessary for the accomplishment of the purpose for which the affected attorney was consulted. The appointment of such member of the State Bar shall not affect the lawyer-client privilege which privilege shall apply to communications by or to the appointed lawyers to the same extent as it would have applied to communications by or to the affected attorney.

§6180.11 Liabilities of Persons and Entities

No person or entity shall incur any liability by reason of the institution or maintenance of the proceeding. No person shall incur any liability for any act done or omitted to be done pursuant to order of the court under this article. No person or entity shall be liable for failure to apply for court jurisdiction under this article. Nothing in this section shall affect any obligation otherwise existing between the affected attorney and any other person or entity.

§6180.12 Appointed Attorneys; Compensation; Reimbursement for Necessary Expenses

A member of the State Bar appointed pursuant to section 6180.5 shall serve without compensation. However, the member may be paid reasonable compensation by the State Bar in cases where the State Bar has determined that the member has devoted extraordinary time and services which were necessary to the performance of the member's duties under this article. All payments of compensation for time and services shall be at the discretion of the State Bar. Any member shall be entitled to reimbursement from the State Bar for necessary expenses incurred in the performance of the member's duties under this article. Upon court approval of expenses or compensation for time and services, the State Bar shall be entitled to reimbursement therefor from the affected attorney or his or her estate.

§6180.13 Stay or Appeal of Order

An order made pursuant to this article is nonappealable, and shall not be stayed by petition for a writ except as ordered by the superior court or the appellate court.

§6180.14 Attorney and Law Practice Defined

As used in this article, "attorney" means a member or former member of the State Bar; "law practice" means (a) a law practice conducted by an individual; (b) a law practice conducted by a partnership, if Section 6180 applies to all partners; and (c) a law practice conducted by a law corporation, if Section 6180 applies to all shareholders of the corporation or if the corporation is described in subdivision (b) of Section 13406 of the Corporations Code. This article does not apply to legal services rendered as an employee, or under a contract which does not create the relationship of lawyer and client.

§6185 Power of Practice Administrator to Control Practice of Deceased or Disabled Member's Practice

- (a) Upon appointment by the superior court pursuant to Section 2468, 9764, or paragraph (22) or (23) of subdivision (b) of Section 17200 of the Probate Code, a practice administrator, who is an active member of the State Bar, may be granted, by order of the court appointing this person, one or more of the following powers to take control of the practice of a deceased or disabled member of the State Bar of California:
 - (1) Take control of all operating and client trust accounts, business assets, equipment, client directories, and premises that were used in the conduct of the deceased or disabled member's practice.

- (2) Take control and review all client files of the deceased or disabled member.
 - (3) Contact each client of the deceased or disabled member who can be reasonably ascertained and located to inform the client of the condition of the member and of the appointment of a practice administrator. The practice administrator may discuss various options for the selection of successor counsel with the client.
 - (4) In each case that is pending before any court or administrative body, notify the appropriate court or administrative body and contact opposing counsel in the cases under the control of the deceased or disabled member and obtain additional time for new counsel to appear for the affected client.
 - (5) Determine the liabilities of the practice and pay them for (sic-from) the assets of the practice. If the assets of the practice are insufficient to pay these obligations or for the expenses incurred by the practice administrator to carry out the powers ordered pursuant to this section, the practice administrator shall apply to the personal representative to obtain the additional funds that may be required. If the personal representative and the practice administrator are unable to agree on the amount that is necessary for the practice administrator to undertake the duties ordered pursuant to this paragraph, either party may apply to the court having jurisdiction over the estate of the deceased or disabled member for an order requesting funds from the estate.
 - (6) Employ any person, including but not limited to the employees of the deceased or disabled member, who may be necessary to assist the practice administrator in the management, winding up, and disposal of the practice.
 - (7) Create a plan for disposition of the practice of the deceased or disabled member to protect its value as an asset of the estate of the member. Subject to the approval of the personal representative of the estate, agree to the sale of the practice and its goodwill.
 - (8) Subject to the approval of the personal representative of the estate, reach agreements with successor counsel for division of fees for work in process on the cases of the deceased or disabled member.
 - (9) Subject to the prohibitions against soliciting cases, the practice administrator may act as successor counsel for a client of the deceased or disabled member.
- (b) If the practice administrator is uncertain as to how to proceed with the powers granted pursuant to this section, he or she may apply to the Superior Court that has jurisdiction over the estate of the deceased or disabled member for instructions.

Fernandez, May

From: Microsoft Outlook
To: 'Caractacus@aol.com'
Sent: Tuesday, June 16, 2015 11:58 AM
Subject: Relayed: RE: Non-Compliance with your probation

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

'Caractacus@aol.com' (Caractacus@aol.com) <<mailto:Caractacus@aol.com>>

Subject: RE: Non-Compliance with your probation

[Faint, illegible text, possibly a signature or stamp]