

# PUBLIC MATTER

**FILED**

NOV 04 2005

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of	)	Case No. 02-C-10281; 02-C-10733;
<b>LONNIE ROBERT MARKUM,</b>	)	02-C-11874 (Cons.)
<b>Member No. 188338,</b>	)	<b>DECISION</b>
<u>A Member of the State Bar.</u>	)	

## I. INTRODUCTION

This disciplinary proceeding arises out of the criminal conviction of respondent Lonnie Robert Markum ("respondent") on May 31, 2002, of misdemeanor violations of Penal Code sections 594, subdivision (b)(2) [vandalism] and 240/241 [assault]; on February 20, 2002, of a misdemeanor violation of Penal Code section 148.5, subdivision (a) [filing a false crime report]; and, on November 15, 2001, of a misdemeanor violation of Vehicle Code section 12500, subdivision (a) [unlawfully driving a motor vehicle without a license].

After respondent reached a stipulation as to facts and conclusions of law with the Office of the Chief Trial Counsel of the State Bar of California ("State Bar"), which incorporated his criminal convictions, this court approved the stipulation and accepted respondent as a participant in the State Bar Court's Pilot Program for Respondents with Substance Abuse or Mental Health Issues (hereinafter referred to as "Alternative Discipline Program" or "ADP"). (Rules Proc. of State Bar, rules 800-807.)

As set forth in greater detail below, respondent was terminated from the State Bar Court's Alternative Discipline Program based upon respondent's termination from the State Bar's Lawyer Assistance Program ("LAP").

kwiktag®

022 604 872



1 In light of respondent's misconduct in this proceeding, the court hereby recommends that  
2 respondent be suspended from the practice of law in the State of California for a period of one  
3 year, that execution of such suspension be stayed, and that respondent be placed on probation for  
4 a period of five years, on conditions including that respondent must be actually suspended from  
5 the practice of law for the first ninety days of the period of probation.

6 **II. SIGNIFICANT PROCEDURAL HISTORY**

7 By an order filed on September 6, 2002, the State Bar Court Review Department referred  
8 State Bar Court Case No. 02-C-11874 to the Hearing Department for a hearing and decision  
9 limited to whether the facts and circumstances surrounding respondent's misdemeanor  
10 conviction of Vehicle Code section 12500, subdivision (a) involved moral turpitude or other  
11 misconduct warranting discipline or, if respondent timely objected to a hearing on this before his  
12 conviction was final, for a hearing and finding, based only on the record of conviction, whether  
13 there is probable cause to believe that the facts and circumstances surrounding respondent's  
14 misdemeanor conviction of Vehicle Code section 12500, subdivision (a) involved moral  
15 turpitude.

16 By an order filed on September 6, 2002, the Review Department referred State Bar Court  
17 Case No. 02-C-10281 to the Hearing Department for a hearing and decision limited to whether  
18 the facts and circumstances surrounding respondent's misdemeanor violations of Penal Code  
19 sections 594, subdivision (b)(2) and 240/241 involved moral turpitude or other misconduct  
20 warranting discipline or, if respondent timely objects to a hearing on this before his conviction is  
21 final, for a hearing and finding, based only on the record of conviction, whether there is probable  
22 cause to believe that the facts and circumstances surrounding respondent's misdemeanor  
23 violations of Penal Code sections 594, subdivision (b)(2) and 240/241 involved moral turpitude.

24 On October 16, 2002, a Notice of Hearing on Conviction in Case No. 02-C-11874 was  
25 filed and properly served upon respondent.<sup>1</sup> Respondent filed his response to the Notice of  
26

---

27  
28 <sup>1</sup>Pursuant to Evidence Code section 452, subdivision (h), the court takes judicial notice of  
the State Bar's official membership records pertaining to respondent.

1 Hearing on Conviction in Case No. 02-C-11874 on January 22, 2003.

2 On October 16, 2002, a Notice of Hearing on Conviction in Case No. 02-C-10281 was  
3 filed and properly served upon respondent. Respondent filed his response to the Notice of  
4 Hearing on Conviction in Case No. 02-C-10281 on January 22, 2003.

5 By an order filed November 7, 2002, the Review Department augmented its previous  
6 referral order to the Hearing Department in Case No. 02-C-10281 to include a hearing and  
7 decision recommending the discipline to be imposed in the event the Hearing Department finds  
8 that the facts and circumstances surrounding respondent's misdemeanor convictions of Penal  
9 Code sections 594, subdivision (b)(2) and 240/241 involved moral turpitude or other misconduct  
10 warranting discipline.

11 On November 26, 2002, the Review Department referred State Bar Court Case No. 02-C-  
12 10733 to the Hearing Department for a hearing and decision recommending the discipline to be  
13 imposed.

14 On January 8, 2003, a Notice of Hearing on Conviction in Case No. 02-C-10733 was  
15 filed and properly served upon respondent. Respondent filed his response to the Notice of  
16 Hearing on Conviction in Case No. 02-C-10733 on January 22, 2003.

17 On January 13, 2003, the court ordered Case Nos. 02-C-10281, 02-C-10733, and 02-C-  
18 11874 consolidated.

19 By an order filed January 29, 2003, the Review Department augmented its previous  
20 referral order to the Hearing Department in Case No. 02-C-11874 to include a hearing and  
21 decision recommending the discipline to be imposed in the event the Hearing Department finds  
22 that the facts and circumstances surrounding respondent's misdemeanor conviction of Vehicle  
23 Code section 12500, subdivision (a) involved moral turpitude or other misconduct warranting  
24 discipline.

25 By an order filed March 4, 2003, the court referred this consolidated matter to the ADP.

26 On April 23, 2003, respondent signed a Participation Agreement with the LAP.

27 On May 25, 2004, this court approved a Stipulation Re Facts and Conclusions of Law  
28 ("stipulation") that had been signed by the parties on August 11, 2003 and September 4, 2003.

1           On May 25, 2004, this court also issued its Decision Re Alternative Recommendations  
2 for Degree of Discipline pursuant to rule 803(a) of the Rules of Procedure of the State Bar of  
3 California ("Rules of Procedure"). After considering the court's alternative discipline  
4 recommendations, respondent elected to participate in the State Bar Court's ADP. Following his  
5 execution of a Contract and Waiver for Participation in the State Bar Court's Pilot Program for  
6 Respondents with Substance Abuse or Mental Health Issues ("Program Contract"), respondent  
7 was accepted into the ADP effective May 25, 2004.

8           Between November 3, 2004 and June 15, 2005, the LAP reported to the court on several  
9 occasions that respondent was not in compliance with the terms of his Participation Agreement  
10 with the LAP.

11           On June 23, 2005, the court held an in-person status conference in this matter. However,  
12 respondent did not appear either in-person or through counsel at the time of the status  
13 conference.

14           On June 28, 2005, the LAP reported to the court an unexcused missed lab test by  
15 respondent on June 21, 2005.

16           On June 29, 2005, the court issued an Alternative Discipline Program Status Conference  
17 Order. The court ordered that respondent be placed on involuntary inactive enrollment effective  
18 three days after service of this order by mail for non-compliance pursuant to Business and  
19 Professions Code section 6233.

20           A letter dated June 29, 2005 was sent to respondent advising him that the LAP Evaluation  
21 Committee had determined that he needed to obtain a treatment assessment and follow the  
22 recommendations made in that assessment. Respondent was also advised that the LAP should  
23 receive verification of respondent's compliance with this recommendation no later than July 11,  
24 2005, in order to avoid the termination of respondent's LAP participation. However, verification  
25 was not received, so respondent's participation in the LAP was terminated effective July 12,  
26 2005, and on July 14, 2005, the LAP notified the court that the LAP Evaluation Committee  
27 terminated respondent's participation on July 12, 2005.

28           In paragraph 5 of the Program Contract signed by respondent on May 25, 2004,

1 respondent confirmed his understanding that, if his participation in the LAP is terminated without  
2 successfully completing the LAP, his participation in the ADP will be terminated. Additionally,  
3 in paragraph 4 of the Program Contract, respondent specifically acknowledged and agreed that  
4 the higher level of discipline set forth in the court's Decision Re Alternative Recommendations  
5 for Degree of Discipline would be recommended to the Supreme Court in the event respondent  
6 is terminated from the ADP without successfully completing the ADP.

7 In light of respondent's termination from the LAP, on July 26, 2005, the court issued an  
8 Order to Show Cause Why Respondent Should Not Be Terminated from the Alternative  
9 Discipline Program ("OSC") as a result of the fact that respondent's participation in the LAP was  
10 terminated effective July 12, 2005. The OSC hearing was set for August 31, 2005. On July 26,  
11 2005, a copy of the OSC was properly served upon respondent by first-class mail, postage  
12 prepaid, addressed to respondent at his official address. The copy of the OSC was not returned to  
13 the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

14 At the OSC hearing on August 31, 2005, Deputy Trial Counsel Charles Murray ("DTC  
15 Murray") appeared and participated on behalf of the State Bar. Respondent did not appear either  
16 in-person or through counsel at the time of the OSC hearing. DTC Murray informed the court  
17 that he had spoken to respondent on August 8, 2005. According to DTC Murray, respondent  
18 informed him that respondent was in a diving accident in Florida and was temporarily paralyzed.  
19 No other evidence of this alleged incident or respondent's medical condition as of August 31,  
20 2005, was submitted to the court. There was no evidence that respondent is no longer terminated  
21 from the LAP.

22 As a result, on October 25, 2005, the court issued an order terminating respondent from  
23 the State Bar Court's ADP based upon his termination from the LAP and ordered that the  
24 Stipulation Re Facts and Conclusions of Law be filed. The court indicated that it would issue  
25 this Decision recommending the higher level of discipline reflected in the Decision Re  
26 Alternative Recommendations for Degree of Discipline lodged on May 25, 2004.



1 On February 28, 2002, a criminal complaint was filed in San Diego Superior Court  
2 charging respondent with nine counts, including four counts of battery in violation of Penal Code  
3 sections 242/243, subdivision (e)(1); two counts of vandalism in violation of Penal Code sections  
4 594, subdivision (a) and 594, subdivision (b)(2); two counts of intimidating a witness/victim in  
5 violation of Penal Code section 136.1, subdivision (b)(1); and one count of damage to a  
6 telephone/cable/TV line in violation of Penal Code section 591.

7 On May 31, 2002, respondent pled guilty to one misdemeanor count of vandalism relating  
8 to Ms. Mulcahey in violation of Penal Code section 594, subdivision (b)(2) and a lesser included  
9 charge of misdemeanor assault relating to Ms. Holcomb in violation of Penal Code sections  
10 240/241.

11 Imposition of sentence was suspended and respondent was placed on summary probation  
12 for three years on conditions which included participation in an outpatient alcohol rehabilitation  
13 program and attendance at Alcoholics Anonymous meetings for a period of nine months as  
14 ordered by a counselor.

15 Respondent did not appeal his conviction.

16 The parties have stipulated that the facts and circumstances surrounding respondent's  
17 conviction of Penal Code sections 594, subdivision (b)(2) and 240/241 involved misconduct  
18 warranting discipline. They further stipulated that respondent's conduct constitutes a wilful  
19 violation of Business and Professions Code section 6068, subdivision (a)<sup>2</sup> [failing to support the  
20 laws of the State of California].

21 The court finds that respondent's conduct involved other misconduct warranting  
22 discipline, and, additionally, constitutes the wilful violation of section 6068, subdivision (a).

23 **2. Case No. 02-C-10733**

24 During the afternoon of November 13, 2001, respondent went to the San Diego  
25 International Airport to pick up his roommate, Bobby Mitchell. At the airport, respondent  
26

---

27  
28 <sup>2</sup>Unless otherwise indicated, all further references to section(s) refer to provisions of the  
California Business and Professions Code.

1 reported to the police that Mitchell's car had been stolen from the airport parking lot.

2 Respondent told the police that he had driven Mitchell's car to the airport to pick up  
3 Mitchell and that he had parked and locked the car before going inside the terminal. Respondent  
4 told the police that Mitchell's flight was delayed and that, when he came back out to the parking  
5 lot, he discovered that the car was not there.

6 The police arranged for a parking lot attendant to drive respondent around the parking lot  
7 to see if respondent had mistakenly parked in another location. When the car could not be  
8 located, respondent filled out and signed a stolen vehicle police report, certifying that the  
9 information in the report was true and correct.

10 After receiving information about the vehicle, the police officer ran a records check on  
11 the car's license number and discovered that the car was at a tow yard. The car had been towed  
12 to that location from the parking lot of an Albertson's grocery store on the previous day, i.e.,  
13 November 12, 2001. It had been parked in the grocery store parking lot for two days.<sup>3</sup>

14 When he was confronted with the information about the location of Mitchell's car,  
15 respondent told the police that he had been drinking with his girlfriend on the evening of  
16 November 9, 2001, and had parked the car near her house because he did not want to drive while  
17 intoxicated. Respondent could not remember moving the car.<sup>4</sup>

18 Respondent was cited for a misdemeanor violation of Penal Code section 148.5,  
19 subdivision (a) [filing a false crime report] on November 13, 2001, and a criminal complaint was  
20 subsequently filed in the San Diego Superior Court on November 27, 2001.

21 Respondent pled guilty to a misdemeanor violation of Penal Code section 148.5,  
22 subdivision (a) on February 20, 2002, and was placed on three years' summary probation and  
23

---

24  
25 <sup>3</sup> The parties' stipulation recites that Mitchell's car had been parked in the grocery store parking  
26 lot for three days. However, the incident involving Ms. Mulcahey occurred on November 10, 2001 and,  
according to the stipulation, Mitchell's car was towed to the tow yard on November 12, 2001, the day  
prior to respondent's arrival at the San Diego International Airport.

27  
28 <sup>4</sup> In this proceeding, respondent claimed that he erroneously believed that it did not matter  
whether he reported Mitchell's car stolen from the airport or from near Ms. Mulcahey's residence. The  
court does not find respondent's claimed belief to be objectively reasonable.

1 ordered to pay fines of \$400.

2 Respondent did not appeal his conviction.

3 The parties have stipulated that the facts and circumstances surrounding respondent's  
4 conviction of Penal Code section 148.5, subdivision (a) involved misconduct warranting  
5 discipline. They further stipulated that respondent's conduct constitutes a wilful violation of  
6 section 6068, subdivision (a).

7 The court finds that respondent's conduct involved other misconduct warranting  
8 discipline, and, additionally, constitutes the wilful violation of section 6068, subdivision (a).

9 **3. Case No. 02-C-11874**

10 At approximately 8:15 a.m. on August 6, 2001, respondent was stopped by the police and  
11 cited for speeding, driving with a suspended driver's license and not having car insurance.

12 On August 15, 2001, a complaint was filed in San Diego Superior Court charging  
13 respondent with a misdemeanor violation of Vehicle Code section 14601.2, subdivision (a)  
14 [driving when license was suspended for DUI]. He was also charged with infractions of violating  
15 Vehicle Code section 22349, subdivision (a) [driving 85 mph in a 65 mph zone] and Vehicle  
16 Code section 16028, subdivision (a) [failure to provide evidence of financial responsibility for  
17 vehicle].

18 On November 15, 2001, respondent pled guilty to a misdemeanor violation of Vehicle  
19 Code section 12500, subdivision (a) [unlawfully driving a motor vehicle without a license]. The  
20 following day, respondent was placed on three years' summary probation, with a fine of \$1,000  
21 and the installation of an ignition interlock device for a period of two years.

22 Respondent did not appeal his conviction.

23 The parties have stipulated that the facts and circumstances surrounding respondent's  
24 conviction of Vehicle Code section 12500, subdivision (a) involved misconduct warranting  
25 discipline. They further stipulated that respondent's conduct constitutes a wilful violation of  
26 section 6068, subdivision (a).

27 The court finds that respondent's conduct involved other misconduct warranting  
28 discipline, and, additionally, constitutes the wilful violation of section 6068, subdivision (a).

1 **IV. AGGRAVATION AND MITIGATION**

2 **A. Aggravating Circumstances**

3 The parties have stipulated that respondent's misconduct was surrounded by or followed  
4 by bad faith, dishonesty and concealment. Although not specified in the stipulation, it appears  
5 that the basis for this aggravating circumstance is respondent's assertion in this proceeding that  
6 he erroneously believed that it did not matter whether he told the police that Mitchell's car had  
7 been stolen from the airport or from somewhere near Ms. Mulcahey's residence. The court does  
8 not find respondent's claimed erroneous belief to be reasonable and does not find him credible in  
9 making that claim. (Standard 1.2(b)(iii), Standards for Attorney Sanctions for Professional  
10 Misconduct ("Standards").)

11 The parties have also stipulated, and the court finds, that respondent's misconduct  
12 significantly harmed the administration of justice (Standard 1.2(b)(iv)) and that his current  
13 misconduct involves multiple acts of wrongdoing (Standard 1.2(b)(ii)).

14 **B. Mitigating Circumstances**

15 Respondent has no record of prior discipline. However, respondent was only admitted to  
16 practice in June 1997. The misconduct which resulted in this proceeding occurred in August  
17 2001 and November 2001, slightly more than four years following his admission to practice.  
18 Such a short period of practice without discipline is not entitled to weight as a mitigating factor.  
19 (Standard 1.2(e)(i); *In the Matter of Hertz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456,  
20 473 [four years of practice without prior discipline cannot be mitigating].)

21 The parties have stipulated that respondent displayed spontaneous candor and cooperation  
22 to the State Bar during these disciplinary proceedings. (Standard 1.2(e)(v).) However, the  
23 mitigating weight of this factor is significantly reduced in light of respondent's subsequent  
24 refusal to comply with the requirements of the LAP and his termination from the ADP.

25 Finally, the parties stipulated that respondent entered into a long-term agreement with the  
26 LAP on April 23, 2003, and that he has been in compliance with the terms of treatment  
27 recommended. However, as the court noted in its Decision Re Alternative Recommendations for  
28 Degree of Discipline, it is the successful *completion* of the LAP and the ADP that is entitled to

1 weight as a mitigating circumstance. Accordingly, as respondent was terminated from the LAP  
2 due to repeated non-compliance with the terms of his Participation Agreement. and as respondent  
3 was subsequently terminated from the ADP as a result of his termination from the LAP, this is  
4 not an appropriate finding in mitigation.

5 The stipulated facts establish that respondent has serious substance abuse problems. The  
6 stipulated facts establish that respondent has a substance abuse problem involving alcohol and  
7 drugs and that his problem is addictive in nature. Respondent admitted to John M. Milner, M.D.  
8 that he has been unable to control his drinking and use of drugs and that, when he has been  
9 drinking or using drugs, he has difficulty controlling his behavior. Furthermore, it is clear, based  
10 on respondent's repeated non-compliance with the terms of his Participation Agreement with the  
11 LAP and the nature of his non-compliance as set forth in the court's order terminating respondent  
12 from the ADP, that respondent has not established, by clear and convincing evidence, his  
13 sustained rehabilitation from his substance abuse problems.

#### 14 **V. DEGREE OF DISCIPLINE**

15 The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to  
16 protect the public, to preserve public confidence in the profession and to maintain the highest  
17 possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103,  
18 111.)

19 Standard 1.6 provides that the appropriate sanction for the misconduct found must be  
20 balanced with any mitigating or aggravating circumstances, with due regard for the purposes of  
21 imposing discipline.

22 Standard 3.4 provides that for conviction of a crime involving other misconduct  
23 warranting discipline, the discipline should be appropriate to the nature and extent of the  
24 misconduct. (*In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108, 118; *In*  
25 *the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 510.)

26 In *In re Otto* (1989) 48 Cal.3d 970, the attorney was convicted of felony violations of  
27 Penal Code sections 245, subdivision (a) [assault by means likely to produce great bodily injury]  
28 and 273.5 [infliction of corporal punishment on a cohabitant of the opposite sex]. The Supreme

1 Court concluded that the attorney's conduct constituted misconduct warranting discipline and  
2 suspended him from the practice of law for a period of two years, stayed execution of the order of  
3 suspension, and placed him on probation for two years on conditions which included six months'  
4 actual suspension.

5         Additionally, in *In the Matter of Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr.  
6 52, the attorney was convicted of misdemeanor battery on a police officer in violation of Penal  
7 Code section 243, subdivision (c). The attorney, who had been drinking, went to the home of his  
8 estranged wife to pick up his 18-month old son. The attorney and his wife got into an argument  
9 and the attorney intimidated his way into her apartment. The police were called by a third party.  
10 The police told the attorney to leave the apartment but, when one of the officers reached for the  
11 attorney's arm to escort him outside, the attorney grabbed the police officer in a bear hug. After  
12 a brief struggle, the attorney was handcuffed and arrested. The Review Department concluded  
13 that the attorney's conduct did not involve moral turpitude but did involve other misconduct  
14 warranting discipline. Based upon the attorney's misconduct, the Review Department  
15 recommended that the attorney be suspended from the practice of law for a period of two years,  
16 that execution of the suspension be stayed, and that the attorney be placed on probation for two  
17 years on conditions which included his actual suspension for the first sixty days of the period of  
18 probation.

19         Finally, in *In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208,  
20 the attorney was convicted on two occasions within a three-year period of driving under the  
21 influence of alcohol. During both of the incidents, the attorney engaged in assaultive behavior  
22 against the police officers. In the first incident, when the police officer attempted to turn off the  
23 ignition of the attorney's car, the attorney pushed the officer's hand away, put the car in gear and  
24 drove away at high speed without headlights, causing a minor cut to the officer's hand. In the  
25 second incident, the attorney touched the officer's service revolver and, when told not to do so  
26 again, attempted to leave the scene. During the attorney's arrest, the attorney struggled with the  
27 officer and attempted to kick the officer while he was being handcuffed. The Review  
28 Department concluded that the attorney's conduct did not involve moral turpitude but did involve

1 other misconduct warranting discipline. The Review Department recommended that the attorney  
2 be suspended from the practice of law for a period of one year, that execution of the suspension  
3 be stayed, and that the attorney be placed on probation for three years on conditions which  
4 included his actual suspension for the first sixty days of the period of probation.

5 In this court's view, respondent's misconduct is less serious than the misconduct involved  
6 in *In re Otto, supra*, but is more serious than the misconduct in *Stewart* and *Anderson* because, in  
7 addition to the substance abuse issue and assaultive behavior, respondent in the current  
8 proceeding also made false statements to the police and filed a false stolen car report. Therefore,  
9 as respondent has been terminated from the ADP and is unable to demonstrate a meaningful and  
10 sustained period of rehabilitation from his alcohol and drug abuse problem, the discipline  
11 imposed should be more severe than the discipline imposed in either *Stewart* or *Anderson*.

12 Whereas upon consideration of the findings of fact and conclusions of law, the  
13 aggravating and mitigating circumstances found in this matter, the Standards for Attorney  
14 Sanctions for Professional Misconduct, and the Supreme Court and Review Department  
15 precedent set forth above, the court concludes that the discipline set forth below is the  
16 appropriate discipline to recommend to the Supreme Court in this matter.

#### 17 **VII. DISCIPLINE**

18 **IT IS HEREBY RECOMMENDED** that respondent **LONNIE ROBERT MARKUM**  
19 be suspended from the practice of law in the State of California for a period of one year, that  
20 execution of such suspension be stayed, and that respondent be placed on probation for a period  
21 of five years, on the following conditions:

- 22 1. Respondent must be actually suspended from the practice of law for the first  
23 ninety days of the period of probation;
- 24 2. Respondent must comply with the provisions of the State Bar Act and the Rules of  
25 Professional Conduct;
- 26 3. Within 10 days of any change in the information required to be maintained on the  
27 membership records of the State Bar pursuant to Business and Professions Code  
28 section 6002.1, subdivision (a), including his current office address and telephone

1                   number, respondent must report such change in writing to the Membership  
2                   Records Office of the State Bar and to the Office of Probation;

3                   4.       Respondent must submit written quarterly reports to the Office of Probation on  
4                   each January 10, April 10, July 10 and October 10 of the probation period. Under  
5                   penalty of perjury, respondent must state whether he has complied with the State  
6                   Bar Act, the Rules of Professional Conduct and all conditions of probation during  
7                   the preceding calendar quarter. If the first report will cover less than thirty days,  
8                   that report must be submitted on the reporting date for the next calendar quarter  
9                   and must cover the extended period. In addition to all quarterly reports,  
10                  respondent must submit a final report, containing the same information required  
11                  by the quarterly reports. The final report must be submitted no earlier than twenty  
12                  days before the last day of the probation period and no later than the last day of  
13                  that period;

14               5.       Respondent must abstain from the use of any alcoholic beverages, and may  
15               neither use nor possess any narcotics, controlled substances, marijuana, or  
16               associated paraphernalia, except with a valid prescription. Respondent must  
17               certify, under penalty of perjury, in each quarterly report and in the final report  
18               required by the terms of his probation that he has abstained from the use of any  
19               alcoholic beverages, and has neither used nor possessed any narcotics, controlled  
20               substances, marijuana, or associated paraphernalia, except with a valid  
21               prescription, during the period covered by each quarterly report or the final report;

22               6.       Subject to the assertion of applicable privileges, respondent must answer fully,  
23               promptly and truthfully, any inquiries of the Office of Probation which are  
24               directed to respondent personally or in writing, relating to whether respondent is  
25               complying or has complied with these probation conditions;

26               7.       Within one year of the effective date of the Supreme Court's final disciplinary  
27               order in this proceeding, respondent must provide to the Office of Probation  
28               satisfactory proof of his attendance at a session of State Bar Ethics School and of

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

his passage of the test given at the end of that session;

8. Respondent must comply with all terms of probation in the underlying criminal proceedings which gave rise to this disciplinary proceeding;

9. These probation conditions will commence upon the date that the final disciplinary order filed by the Supreme Court in this proceeding becomes final.

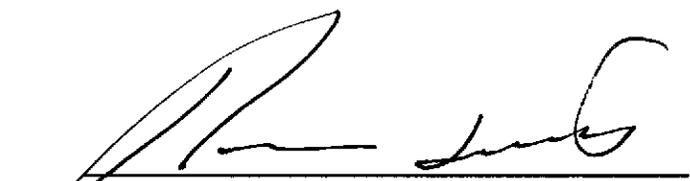
The court recommends that respondent be required, within one year of the effective date of the Supreme Court's final disciplinary order in this proceeding, to take and pass the Multistate Professional Responsibility Examination ("MPRE") administered by the National Conference of Bar Examiners, and that he be ordered to provide satisfactory proof of his passage of the MPRE to the Office of Probation within that period.

It is further recommended that respondent be ordered to comply with the requirements of rule 955 of the California Rules of Court and that he be ordered to perform the acts specified in subdivisions (a) and (c) of that rule within thirty (30) and forty (40) calendar days, respectively, from the effective date of the Supreme Court's final disciplinary order in this proceeding.

**VIII. COSTS**

The court recommends that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10, and that such costs be enforceable in accordance with Business and Professions Code sections 6086.10, subdivision (a) and 6140.7.

Dated: November 4, 2005

  
ROBERT M. TALCOTT  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**  
[Rule 62(b), Rules Proc.; 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 November 7, 2005, I deposited a true copy of the following document(s):

**DECISION**

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

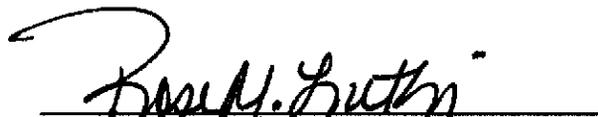
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**LONNIE R. MARKUM  
P O BOX 9608  
SAN DIEGO CA 92109**

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

**CHARLES MURRAY, ESQ., Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 7, 2005.



Rose M. Luthi  
Case Administrator  
State Bar Court