PUBLIC MATTER – NOT DESIGNATED FOR PUBLICATION

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case No. 12-O-16924
	)	
JOSEPH DARRELL PALMER,	)	OPINION
	)	
A Member of the State Bar, No. 125147.	)	
	)	

Joseph Darrell Palmer appeals a hearing judge's decision finding him culpable of three counts of moral turpitude for the grossly negligent making of false statements in sworn affidavits filed in federal class actions. The judge recommended discipline including a 90-day actual suspension. Palmer admits he swore falsely in each affidavit that he had no history of attorney discipline, and he authorized the affidavits for filing. He argues, though, that he acted with simple negligence, not moral turpitude, and is not culpable of misconduct. Even if he is found culpable, Palmer asserts that the recommended discipline is excessive and a public reproval is appropriate. The Office of the Chief Trial Counsel of the State Bar (OCTC) supports the hearing judge's culpability findings and recommended discipline.

We review the record independently (Cal. Rules of Court, rule 9.12) and, considering the totality of the circumstances, agree with the hearing judge's conclusion that Palmer acted with gross negligence, amounting to moral turpitude, in executing and filing the false affidavits. We also affirm the recommended discipline, which is supported by the standards[1] and decisional law.

[1] Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct. Effective July 1, 2015, the standards were revised and renumbered. Since this appeal was submitted for ruling after that effective date, we apply the revised standards, and all further references to standards are to this source.

I. PROCEDURAL HISTORY

On December 6, 2013, OCTC filed a Notice of Disciplinary Charges (NDC) charging Palmer with three counts of violating Business and Professions Code, section 6106.[2] On April 15, 2014, the parties filed a Joint Stipulation of Facts and Admission of Documents, and the case was submitted after a one-day trial. On July 11, 2014, the Hearing Department issued its decision, finding Palmer culpable as charged.

II. FACTUAL BACKGROUND

Palmer does not dispute the hearing judge's factual findings. Clear and convincing evidence supports the material findings of fact, which we adopt and summarize briefly as follows.[3]

A. Palmer's Criminal Conviction Resulted in Discipline in Three Jurisdictions

Palmer has been admitted to practice law in California since 1986, in Colorado since 1993, and in Arizona since at least February 2003.

During the early to mid-1990s, Palmer owned and operated two businesses in Colorado. In 2002, he was convicted of a Colorado criminal offense for failing to properly report roughly $4,000 in sales taxes in his operation of those businesses. Palmer was sentenced to two years of unsupervised probation and ordered to complete 200 hours of community service. As a result of this conviction, the Colorado Supreme Court imposed discipline on Palmer in July 2002, including a thirty-day actual suspension, a sixty-day stayed suspension, and a one-year probation

---

[2] Section 6106 provides: "The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension." All further references to sections are to the Business and Professions Code unless otherwise noted.

[3] We afford great weight to the hearing judge's factual findings. (Rules Proc. of State Bar, rule 5.155(A).) Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

period. Palmer was reciprocally disciplined when the State Bar Court of California publicly reproved him in November 2002. In February 2003, the Supreme Court of Arizona also imposed reciprocal discipline with terms identical to those in Colorado.

B. Palmer Admits He Falsely Represented his Disciplinary History in Sworn Affidavits

Palmer admits that he executed and filed three sworn affidavits, between June 2010 and July 2012, in which he declared falsely that he had never been subject to attorney discipline. He filed each of the affidavits in support of applications to proceed *pro hac vice* in civil class actions. First, in June of 2010, Palmer filed an affidavit in *Gemelas v. The Dannon Company* (*Dannon*), pending in the United States District Court for the Northern District of Ohio, in which he, "being duly sworn upon oath," declared: "I have never been the subject of disciplinary action of any kind before any bar or court." Second and third, in January 2011 and July 2012, respectively, Palmer filed affidavits in separate class actions in the United States District Court for the Western District of Washington—*Arthur v. Sallie Mae, Inc.* (*Sallie Mae*) and *Herfert v. Crayola, LLC* (*Crayola*)—in which he "declare[d] under penalty of perjury" that "I have not been disbarred or formally censured by a court of record or by a state bar association . . . ."

Palmer admits he was aware of his prior discipline when he signed and filed each affidavit. The hearing judge found Palmer credibly testified that he could not remember signing any of these affidavits nor did he specifically recall if he had read the declarations before executing them. Further, he credibly testified that he had no intention of misrepresenting his disciplinary history and had no reason to do so. In fact, Palmer had previously disclosed his prior discipline in multiple *pro hac vice* applications without any being denied due to his disciplinary record.

C. Palmer's False Statements Are Discovered by the Court and Other Counsel

In early August 2012, the United States District Court for the Western District of Washington issued an order in the *Crayola* case directing Palmer to show cause why he should not be sanctioned for submitting a *pro hac vice* application containing a false statement. Shortly thereafter, Palmer filed an amended application and supporting affidavit in which he disclosed his prior discipline. The district court denied Palmer's *pro hac vice* application in *Crayola* on August 17, 2012, based on his false statement as to his past discipline and because he failed to appear at a court hearing.

Palmer did not take immediate action to correct his affidavits in the *Sallie Mae* or *Dannon* cases after learning of the misrepresentation in his *Crayola* affidavit. On August 20, 2012, the plaintiffs in *Sallie Mae* moved to revoke Palmer's *pro hac vice* status due to his false statement. Seven days later, Palmer filed an amended application in *Sallie Mae*. Nevertheless, in September 2012, the district court revoked Palmer's *pro hac vice* status in the *Sallie Mae* case, based on: (1) his false representation in his affidavit; and (2) the fact that he did not amend his application until August 27, 2012, rather than correcting it promptly after his *Crayola* application was challenged. The record contains no evidence that Palmer ever filed a corrected affidavit in the *Dannon* matter.

III. PALMER IS CULPABLE OF MORAL TURPITUDE

OCTC charged Palmer with committing acts involving moral turpitude by filing affidavits in the *Dannon* (Count One), *Sallie Mae* (Count Two), and *Crayola* (Count Three) matters in which he made the false statements regarding his disciplinary history, when he knew, or was grossly negligent in not knowing, that each declaration was false. The hearing judge found Palmer made the misrepresentations inadvertently, without intent to mislead or deceive, but concluded that they were made with gross negligence amounting to moral turpitude. We

give great weight to this finding and adopt it.[4] We also find his actions were grossly negligent for the reasons discussed below.

Palmer claims he is not culpable because: (1) he acted with "ordinary," not "gross," negligence in failing to read the affidavits closely before signing and filing them; and (2) even if he were found to be grossly negligent, that finding is insufficient under the circumstances to support his culpability for moral turpitude. We disagree on both points.

A. Palmer Was Grossly Negligent in Misrepresenting his Disciplinary History

Palmer either personally signed or approved for electronic signature, and authorized for filing, each of the false affidavits. However, he did not review the affidavits carefully, as he failed to notice the plainly false statements contained therein. In fact, such lack of diligence was common in Palmer's practice. His long-time paralegal, who prepared the affidavits for his approval and signature, testified that Palmer "did not thoroughly review what [she] put in front of him to sign." This lack of attention is substantially below the ethical standard of care required of attorneys when signing and filing documents under oath. Indeed, the standard of ethical practice for a reasonable attorney in Palmer's situation, with prior records of discipline, should be heightened when signing and filing applications intended to demonstrate his suitability to practice law. Palmer also failed to act promptly in reviewing and correcting his applications in other pending cases after learning of his misrepresentation in the *Crayola* affidavit. We conclude that the totality of his actions evidences gross negligence.[5]

---

[4] We reject OCTC's contention that Palmer acted with intent to deceive. Palmer's testimony and other evidence demonstrating that he candidly disclosed his discipline history in the past and had no reason to conceal it support the judge's conclusion. (*McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032 [hearing judge "is best suited to resolving credibility questions"].)

[5] Besides the charged misrepresentations, Palmer admits he filed a 2006 affidavit and *pro hac vice* application in another lawsuit in the United States District Court for the Western District of Washington, *Dinklage v. Holland America Line-Westours, Inc.* (*Holland America*), in which he made a false statement identical to that in the *Sallie Mae* and *Crayola* cases. Palmer challenges the hearing judge's finding that "gross negligence is clearly supported" by the

B. Whether Grossly Negligent Misconduct Involves Moral Turpitude Depends on the Totality of the Surrounding Circumstances

An attorney who commits misconduct through gross negligence is not necessarily culpable of moral turpitude. The Supreme Court has held that gross negligence amounts to moral turpitude when there "is a breach of the fiduciary relationship that binds an attorney to the most conscientious fidelity to the interests of his client." (*Lowe v. State Bar* (1953) 40 Cal.2d 564, 570.) In *Call v. State Bar* (1955) 45 Cal.2d 104, 109, the Supreme Court explained: "Some cases have said that gross negligence involves moral turpitude in that such conduct is a breach of [an attorney's] fiduciary duty, but in each instance there was a misrepresentation or other improper action, and the statements *must be read in light of the additional facts*." (Italics added.) Thus, in determining whether grossly negligent conduct involves moral turpitude, we must consider the totality of the surrounding circumstances.

For example, where an attorney is charged with misappropriation of entrusted funds, the "critically important rules for safekeeping and disposition of client funds" (*Palomo v. State Bar* (1984) 36 Cal.3d 785, 795) and the non-delegable fiduciary duties of attorneys to comply with those rules are "additional facts" that support a finding of moral turpitude (see *Giovanazzi v. State Bar* (1980) 28 Cal.3d 465; *In the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627, 635). Other than in the misappropriation context, the Supreme Court has found "additional facts" sufficient to elevate grossly negligent misconduct to moral turpitude in cases where an attorney breached a fiduciary duty owing to a particular individual. (E.g., *Grove v. State Bar* (1967) 66 Cal.2d 680, 683-684 [attorney culpable of moral turpitude based on grossly negligent habitual disregard of clients' interests].) An attorney's grossly negligent misconduct also may involve the requisite "additional facts" amounting to moral turpitude where

---

Holland America affidavit, which was filed four years before the first charged misrepresentation occurred. Given this temporal gap, we find the 2006 declaration only marginally probative of Palmer's mental state with respect to the current charges.

it affects non-clients or the public in general. (*Vaughn v. State Bar* (1972) 6 Cal.3d 847, 859 [attorney's grossly negligent supervision of office staff, resulting in filing of application for writ of execution containing false statements, amounted to moral turpitude; Court noted: "In some instances, as in the matter before us, an attorney's gross negligence may also affect non-clients with whom he deals or even the public generally"]; *In the Matter of Dale* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798 [attorney culpable of moral turpitude where he elicited confession from uneducated, incarcerated young man without presence of young man's counsel and without disclosing that he represented parties with adverse interests].)

Recently, in *In the Matter of Yee* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330, 333-334, we applied a totality-of-the-circumstances analysis to find moral turpitude where an attorney, through gross negligence, affirmed falsely to the State Bar that she had complied with its Minimum Continuing Legal Education (MCLE) requirements and had the records to prove it. Our finding there rested on "additional facts" surrounding the misstatement, such as: (1) the unique significance of MCLE compliance to the State Bar's role in protecting the public and ensuring public confidence in the legal profession; (2) the high level of materiality of an attorney's compliance statement to the State Bar's performance of this essential function; (3) the State Bar's dependence on accurate self-reporting with the MCLE program necessarily relying on an "honor system"; (4) " 'the additional imprimatur of veracity' " (quoting *In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 786) attached to an "affirmation," which "reasonably notifies others that the statements are true and complete"; and (5) Yee's failure to "mak[e] any effort to confirm [the] accuracy" of her affirmation.

Many of these same considerations guide us in this case to conclude that Palmer's gross negligence involved moral turpitude.

C. The Totality of the Circumstances Surrounding Palmer's Misconduct Demonstrates Moral Turpitude

We consider the circumstances surrounding Palmer's misstatements.

Here, Palmer owed duties to the courts and the public to ensure that his under-oath declarations were true and correct. Even more than the unsworn affirmation at issue in the *Yee* matter, Palmer's sworn declarations carried an "imprimatur of veracity" upon which courts and other parties were reasonably entitled to rely. (*In the Matter of Maloney and Virsik*, *supra*, 4 Cal. State Bar Ct. Rptr. at p. 786.) And, similar to the affirmation of compliance in *Yee*, Palmer's affidavits filed in support of applications to appear *pro hac vice* served a critical function. They provided information necessary to the courts' assessment of Palmer's fitness to practice without presenting a risk to the public. Palmer's misrepresentations of his disciplinary history were highly material to that assessment.

Further, Palmer testified that he "routinely represent[s] objectors . . . in class action settlements" nationwide. In this capacity, Palmer frequently appeared *pro hac vice* in courts throughout the country and was aware that many courts require such applicants to disclose past professional misconduct. Also, given the brevity of the affidavits—each under a page long—Palmer could have ensured with minimal effort that his statements were true. In fact, the two declarations filed in the United States District Court for the Western District of Washington were based on the district court's form *pro hac vice* declaration, which requested information regarding only one aspect of the applicant's qualifications—disciplinary history. Yet Palmer failed to accurately respond to this singularly important request even though the offending misstatements in those two affidavits immediately preceded his avowal: "I declare under penalty of perjury that the foregoing is true and correct," which was directly above Palmer's signature line.

Considering the totality of the circumstances, and consistent with our comparable case law, we conclude Palmer's grossly negligent misrepresentations involved moral turpitude.[6] (*In the Matter of Maloney and Virsik, supra,* 4 Cal. State Bar Ct. Rptr. at p. 786 ["It is well established that acts of moral turpitude include an attorney's false or misleading statements to a court or tribunal. [Citations.] The actual intent to deceive is not necessary; a finding of gross negligence in creating a false impression is sufficient for violation of section 6106. [Citations.]"]; see also, e.g., *In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 155 [attorney culpable of moral turpitude based on grossly negligent filing of false verification without reasonable basis to believe verified statements were true]; *Vaughn v. State Bar, supra,* 6 Cal.3d 847 [attorney culpable of moral turpitude based on grossly negligent failure to supervise staff who filed application for writ of execution containing false statements]; *In the Matter of Moriarty* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9 [attorney culpable of moral turpitude based on grossly negligent misrepresentation to superior court that case had settled].)

IV. LIMITED AGGRAVATION AND MITIGATION[7]

The hearing judge correctly found Palmer's misconduct was aggravated by his prior record of discipline and multiple acts of wrongdoing, but mitigated by his recognition of wrongdoing and good character. Weighing these circumstances in aggregate, we conclude that aggravation outweighs mitigation somewhat, though neither is particularly significant.

To begin, Palmer's 2002 public reproval is aggravating. (Std. 1.5(a).) Like the judge, we diminish the weight of this prior record. The misconduct was remote in time as Palmer's tax

---

[6] OCTC argues for the first time on appeal that certain statements the district court made on the *Sallie Mae* record further evidence Palmer's moral turpitude. Palmer raises several evidentiary objections to those statements and asserts that, in any case, we should not consider OCTC's new argument on appeal. We need not resolve this evidentiary issue since we find Palmer's culpability was clearly established without considering the contested statements.

[7] Standard 1.5 requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Palmer to meet the same burden to prove mitigation.

offense occurred in the mid-1990s, roughly 15 years before he filed the first of the false affidavits at issue in this case. Also, the misconduct was not serious. (*In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, 713 [prior misconduct that was not serious and occurred over 17 years before first misconduct in present case did not warrant significant aggravation].) Turnover in Palmer's accounting department was a significant cause of the criminal violation, which did not involve moral turpitude. Palmer was not found to have deliberately avoided his tax obligations or personally profited from his company's failure to report and pay taxes.[8]

Palmer's misconduct is also aggravated by his multiple acts of wrongdoing in executing and filing three separate and unrelated affidavits containing false statements. (Std. 1.5(b).)

We reject OCTC's argument that Palmer's failure to act promptly to amend the affidavits in the *Sallie Mae* and *Dannon* cases warrants additional aggravation as we considered this conduct already with respect to Palmer's culpability. We also disagree with OCTC's characterization of Palmer's testimony as blaming others. His explanations of the circumstances surrounding his misconduct did not demonstrate lack of recognition of his own responsibility.

Like the hearing judge, we find Palmer deserves some mitigation for his prompt steps in conducting an audit of his *pro hac vice* applications in August 2012, once he learned of the misstatements, and for overhauling his internal case management practices to track the status of his pending cases and the documents filed therein. These acts show remorse and recognition of

---

[8] OCTC argues, without citation to authority, that the prior record is not remote in time from the present misconduct because Palmer filed a 2006 affidavit in the *Holland America* case that contained a misrepresentation similar to those charged. We reject this argument because Palmer was not charged with or found culpable of misconduct relating to the 2006 affidavit. We also reject OCTC's argument that a reduction of aggravating weight for a prior record that is remote in time is "not consistent with standard 1.5(a)." Standard 1.5(a) is silent as to the weight of aggravation, and our case law provides for such a reduction.

wrongdoing. (Std. 1.6(g) [mitigation for "prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement"].)[9]

The hearing judge assigned Palmer limited mitigation based on the "very credible" testimony of three attorney witnesses as to Palmer's honesty and integrity. (Std. 1.6(f) [mitigation for "extraordinary good character attested to by a wide range of references in the legal and general communities"].) We adopt this finding, which is uncontested on appeal and supported by our case law. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50 [assigning slightly diminished mitigation to evidence of good character from four attorney character witnesses who did not constitute wide range of references in legal and general communities]; *In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [character testimony from attorneys is particularly valuable because they "have a strong interest in maintaining the honest administration of justice"].)

V. DISCIPLINE[10]

The hearing judge recommended discipline including a 90-day actual suspension. OCTC asks us to affirm the recommendation; Palmer claims it is excessive and asserts that, if he is found culpable, a public reproval is appropriate.

Our discipline analysis begins with the standards, which promote the consistent and uniform application of disciplinary measures and are entitled to great weight. (*In re Silverton* (2005) 36 Cal.4th 81, 91 [Supreme Court will not reject recommendation arising from standards

---

[9] OCTC asserts Palmer's actions were not "spontaneous" because he took them only after the district court in the *Crayola* proceeding threatened sanctions for his false statement. The fact that the misstatements came to light during a court proceeding does not preclude Palmer from receiving mitigating credit for *independently* conducting an internal audit and revamping his case management procedures. In contrast, we do not credit Palmer mitigation for amending his affidavits under threat of sanctions and other potential consequences in the district court.

[10] The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession; to preserve public confidence in the profession; and to maintain high professional standards for attorneys. (Std. 1.1.)

unless grave doubts as to propriety of recommended discipline].) Here, standard 2.11 is most apt and provides that, "[d]isbarment or actual suspension is the presumed sanction for an act of moral turpitude . . . or grossly negligent misrepresentation . . . . The degree of sanction depends on the magnitude of the misconduct; the extent to which the misconduct harmed or misled the victim, which may include the adjudicator; the impact on the administration of justice, if any; and the extent to which the misconduct related to the member's practice of law."[11] To determine the appropriate level of discipline within the range provided, we also consider comparable case law. (*In the Matter of Elkins* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160, 168.)

Palmer claims that a downward departure from the presumed discipline range in standard 2.11 is warranted because his misconduct is comparable to that in *In the Matter of Yee*, *supra*, 5 Cal. State Bar Ct. Rptr. 330. We disagree with Palmer's analysis. Yee's misconduct was much less serious than Palmer's. Unlike Palmer, Yee made only one misrepresentation, which was not under oath nor in a court-filed document. Yee's misconduct was at the lower level of severity for which we have found moral turpitude. Also, unlike Palmer, Yee had no history of discipline, her misconduct involved no aggravating circumstances, and she proved compelling mitigation. In *Yee*, the net effect of mitigation and aggravation demonstrated that a sanction less than actual suspension would fulfill the purposes of discipline. (Std. 1.7(c).) Here, it does not, and we find no basis to deviate from the applicable standard. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5 [clear reasons for departure from standards should be shown].)

Instead, we find Palmer's case comparable to *In the Matter of Downey, supra,* 5 Cal. State Bar Ct. Rptr. 151. Downey was culpable of moral turpitude for his grossly negligent

---

[11] Standard 1.8(a) also applies and provides that, "[i]f a member has a single prior record of discipline, the sanction must be greater than the previously imposed sanction unless the prior discipline was so remote in time and the previous misconduct not serious enough that imposing greater discipline would be manifestly unjust."

execution and filing of a false verification. He received a 150-day actual suspension.[12] Palmer attempts unsuccessfully to distinguish *Downey*. He claims Downey's mens rea was more culpable than his in that Downey made "two very deliberate *choices*: (1) to not further investigate the [facts relating to the verification]; (2) to execute the verification." In fact, Palmer too acted deliberately in choosing not to review his affidavits thoroughly before signing and filing them under penalty of perjury. Also, he exercised this level of gross neglect on three separate occasions, as compared to Downey's single instance.

Still, Palmer's misconduct warrants a less severe sanction than Downey's due to two important differences: first, Downey's prior misconduct, involving moral turpitude and resulting in a four-month actual suspension, was more serious than Palmer's prior misconduct, which did not involve moral turpitude and was resolved by public reproval. Second, Downey's misconduct was followed by dishonesty and concealment, whereas Palmer has admitted his false statements and demonstrated remorse.

Like the hearing judge, we also find guidance in *Bach v. State Bar* (1987) 43 Cal.3d 848. Bach received a 60-day actual suspension for making intentional false statements to a judge regarding the issuance and service of a prior order. His misconduct was aggravated by a prior public reproval and failure to appreciate the gravity of his wrongdoing. Palmer asserts that Bach's misconduct was "far worse" than his. We disagree. Bach's single instance of moral turpitude was not more serious, given Palmer's multiple and separate acts of wrongdoing over a span of roughly two years, and the fact that Palmer, unlike Bach, made his false statements in declarations executed under oath.

Considering the comparable case law, in sum, and looking in particular to *Downey* and *Bach* as guideposts, we conclude that the hearing judge's recommended 90-day actual

---

[12] Downey was also culpable of failing to update his address of record with the State Bar, but that minor additional violation did not materially impact the discipline recommendation.

suspension, which is within the range provided in standard 2.11, is appropriate and will protect the public, the courts, and the profession.

VI. RECOMMENDATION

For the foregoing reasons, we recommend that Joseph Darrell Palmer be suspended from the practice of law for two years, that execution of that suspension be stayed, and that Palmer be placed on probation for two years on the following conditions:

1. He must be suspended from the practice of law for the first 90 days of the period of his probation.

2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation.

3. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, he must report such change in writing to the Membership Records Office and the State Bar Office of Probation.

4. Within 30 days after the effective date of discipline, he must contact the Office of Probation and schedule a meeting with his assigned probation deputy to discuss the terms and conditions of probation. Upon the direction of the Office of Probation, he must meet with the probation deputy either in person or by telephone. During the period of probation, he must promptly meet with the probation deputy as directed and upon request

5. He 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, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.

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

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

8. The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the period of probation, if he has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

VII. PROFESSIONAL RESPONSIBILITY EXAMINATION

We further recommend that Palmer be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year of the effective date of the Supreme Court order in this matter and to provide satisfactory proof of such passage to the Office of Probation within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

VIII. RULE 9.20

We further recommend that Palmer be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

IX. COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

HONN, J.

WE CONCUR:

EPSTEIN, J.

STOVITZ, J.*

* Retired Presiding Judge of the State Bar Court, serving as Review Judge Pro Tem by appointment of the California Supreme 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. 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 January 6, 2016, I deposited a true copy of the following document(s):

OPINION FILED JANUARY 6, 2016

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:

DAVID C. CARR
LAW OFFICE OF DAVID C. CARR PLC
525 B ST STE 1500
SAN DIEGO, CA 92101

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

BRANDON K. TADY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 6, 2016.

Jasmine Guladzhyan
Case Administrator
State Bar Court