PUBLIC MATTER – NOT DESIGNATED FOR PUBLICATION

Filed October 20, 2015

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of MARY M. DRYOVAGE, A Member of the State Bar, No. 112551.	))))))	Case No. 11-O-17950 OPINION [As Modified on December 29, 2015]

A hearing judge found Mary M. Dryovage culpable of failing to maintain her client's funds in trust, in violation of rule 4-100(A) of the Rules of Professional Conduct.[1] The judge characterized Dryovage's mishandling of her client's monies as a "fee dispute matter that should have been the proper subject of arbitration." She dismissed the charge that Dryovage withdrew disputed client funds as duplicative, and found no culpability on the remaining charges: (1) committing acts of moral turpitude; (2) failing to render an accounting; (3) failing to perform with competence; and (4) failing to inform the client of significant developments. The hearing judge found Dryovage's misconduct was aggravated by client harm and her delay in returning the disputed funds to her client trust account (CTA), but tempered by her 25 years of discipline-free practice, good faith, community service, and good character. Ultimately, she ordered a public reproval with conditions, including restitution.

The Office of the Chief Trial Counsel of the State Bar (OCTC) seeks review, requesting disbarment. It argues Dryovage did more than mishandle her client's funds; she intentionally

[1] All further references to rules are to the Rules of Professional Conduct.

misappropriated them, in violation of Business and Professions Code section 6106.[2] It also contends that several aggravating and mitigating findings are incorrect. Dryovage does not appeal, although she disagrees with the reproval's restitution condition.

After independently reviewing the record (Cal. Rules of Court, rule 9.12), we find Dryovage committed an act of moral turpitude by intentionally misappropriating her client's funds. We also find an additional aggravating circumstance (multiple acts), and alter the mitigation findings—no credit for good faith but cooperation as an added factor. We disagree with OCTC that disbarment is warranted. Dryovage's claim of entitlement to her fee distinguishes this case from those involving the outright theft of client funds. Specifically, after investing more than four years and over 500 hours without receiving any compensation, Dryovage obtained a favorable outcome for her client, but then became embroiled in a contentious fee dispute. In this context, she withdrew funds to which her entitlement was not fixed.

A public reproval falls short of appropriate discipline for this type of serious misconduct. Therefore, we recommend a one-year actual suspension to continue until Dryovage provides proof of payment to her client, Arrolene Burrell, of any award resulting from their participation in the State Bar's Mandatory Fee Arbitration or otherwise presents satisfactory proof that she has settled her fee dispute with Burrell.

I. PROCEDURAL BACKGROUND

On December 7, 2012, OCTC filed a seven-count Notice of Disciplinary Charges (NDC). The parties entered into a pretrial stipulation as to facts. After a six-day trial, the hearing judge filed her decision on October 25, 2013.

[2] OCTC concedes that all of the hearing judge's findings on the remaining counts were correct, and does not challenge them. We agree with those findings and adopt them. All further references to sections are to the Business and Professions Code.

II. FACTUAL BACKGROUND

The majority of the factual findings are undisputed, and Dryovage stipulated to many of the facts establishing her culpability. We adopt the hearing judge's detailed recitation of the factual issues involved, except where noted, and summarize and expand those findings relevant to our analysis.

A. Dryovage Represents Burrell

Dryovage was admitted to the Bar in 1984, and has never been disciplined. Presently, she serves as an administrative law judge for Cal/OSHA.

In 2005, she began representing Arrolene Burrell in an employment discrimination matter. On January 12, 2005, Dryovage sent Burrell a retainer agreement, providing that: (1) to ensure Dryovage's availability, Burrell would pay a $5,000 retainer fee, which would be credited against fees and costs; (2) if Burrell's claims were resolved by settlement or judgment at or after the pre-hearing conference, Dryovage would receive either an hourly rate of $420 or one-third of the recovery, whichever was greater; and (3) Burrell was responsible for paying the litigation costs. Burrell paid the $5,000 retainer, but never executed the agreement.

B. Dryovage Settles Burrell's Case

In 2007, Dryovage filed a lawsuit on Burrell's behalf in federal district court. In July 2009, Dryovage and Burrell attended a settlement conference. Dryovage testified that she had a conversation with Burrell when no settlement resulted. Burrell indicated she "certainly wanted to have the attorney fees that were outstanding paid off" and she "wanted the costs that she had expended back." At the time, she had paid over $15,000 in costs. Burrell concluded she "would be happy" if Dryovage could settle the matter for $25,000. Dryovage confirmed with Burrell three times that she authorized Dryovage to settle the case for $25,000 "with the balance going to pay off the attorney's fees." Burrell testified that she gave no such authorization.

Dryovage settled Burrell's case on September 30, 2009. Pursuant to the settlement agreement, Burrell's former position and title would be restored, adverse employment documents would be removed from her personnel file, and she would receive $92,676.88. On the date of the settlement, Burrell contacted Dryovage to discuss allocation of the funds. Their conversation was futile and they were unable to agree on the settlement distribution. On October 1, 2009, Burrell signed the settlement agreement.

On October 22, 2009, Dryovage received the $92,676.88 settlement check made payable to Burrell and herself. After depositing it into her CTA without Burrell's endorsement, Dryovage made a $10,000 withdrawal on October 23 and a $25,000 withdrawal on October 28, 2009. On November 2, she sent Burrell the settlement agreement, the documents removed from her personnel file, the signed stipulation and order, and a check for $25,676.88. She wrote "Payment in full" on the check and on the cover letter identifying the enclosures. Burrell received the check, but did not cash it for fear of losing any right she had to obtain additional settlement funds.

C. Fee Dispute

On November 6, 2009, Burrell sent Dryovage an email stating: "Mary as you know we did not resolve distribution of the $92,250.00 when you ended our phone call abruptly on September 30, 2009. You do not have permission to sign this check for me." Dryovage stipulated that she knew as of this date that Burrell objected to her attorney fees and disputed the settlement distribution. On November 10, Dryovage sent Burrell a preliminary invoice and an unsigned retainer agreement.[3] The invoice detailed over 500 hours of services she provided and the costs she incurred on Burrell's behalf. On November 11, Dryovage sent a subsequent email stating: "It sounds like you believe you have a fee dispute with me. The appropriate forum for

[3] Dryovage did not realize until November 10, 2009 that she had no signed fee agreement from Burrell.

resolving that issue is through the State Bar Mandatory Fee Arbitration Program." On March 9, 2010, Dryovage withdrew another $15,000 from her CTA.

Burrell hired attorney Greg Mullanax to assist her with the fee dispute. Mullanax sent Dryovage a letter on March 18, 2010, advising her that Burrell was willing to settle the matter for $55,606.13, which constituted 60% of the $92,676.88 settlement, leaving Dryovage 40% for her attorney fees. He also reminded her that rule 4-100(A) required her to maintain the disputed portion of the settlement funds in her CTA until the dispute was resolved.

Dryovage responded to Mullanax's letter on March 29, 2010, explaining that Burrell authorized her to settle the case for $25,000, with the balance of any additional funds to be applied to her attorney fees and costs. She acknowledged that Burrell never returned the fee agreement, but Dryovage maintained she would be entitled to quantum meruit for the value of her services if she were sued. Mullanax emailed Dryovage on April 29, 2010, asserting that Dryovage apparently did not want to resolve the dispute, and asking her to state her position. Dryovage never responded to this email.[4] Despite the ongoing fee dispute, Dryovage made five additional withdrawals totaling $17,000 from her CTA during May through July 2010. She stipulated she withdrew $67,000 from her CTA as attorney fees from the funds maintained on behalf of Burrell.

Burrell complained to the State Bar in October 2011. During an August 7, 2012 Early Neutral Evaluation Conference (ENEC),[5] Dryovage was informed that rule 4-100(A) mandated she return the disputed funds to her CTA until she and Burrell resolved the matter. The ENEC prompted Dryovage to seek a settlement with Burrell. She informed Mullanax in September 2012 that she was willing to end the fee dispute and intended to send him a check. When

[4] Dryovage testified that this email was "resuscitated" with all the emails she recovered in this matter, but she had failed to respond because she did not recall seeing it at the time.

[5] An Early Neutral Evaluation conference is confidential, but Dryovage waived its confidentiality.

Mullanax emailed Burrell about Dryovage's offer to send an unspecified amount, Burrell told him that he no longer represented her. Meanwhile, Dryovage sent Mullanax a $55,606.13 check payable to Burrell dated September 26. By email on September 27, Mullanax advised Dryovage that he no longer had authority to act on Burrell's behalf. When he received Dryovage's envelope, he returned it.

On October 17, 2012, Dryovage sent another check for $25,676.88 directly to Burrell, but this time it did not bear the words "payment in full." Burrell cashed this check. Dryovage testified she sent that amount instead of $55,606.13 because Mullanax had indicated Burrell was not interested in settling the matter. She also testified that she restored the disputed funds to her trust account in October 2012, where they remain.

III. CULPABILITY

A. Count One: Dryovage Violated Rule 4-100(A)[6]

We agree with the hearing judge's finding that Dryovage violated rule 4-100(A) by failing to maintain Burrell's settlement funds in trust and taking disputed fees out of her CTA. However, we assign no weight to this charge since, as discussed below, the same facts support the section 6106 violation in Count Three. (*In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127.)

B. Count Three: Dryovage Violated § 6106[7]

OCTC alleged Dryovage "misappropriated $67,000 for her own use and benefit" by withdrawing those funds "from her CTA as attorney's fees in Burrell's matter when she knew she was not entitled to do so." OCTC contends this misappropriation was intentional, and

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[6] Rule 4-100(A) requires an attorney to deposit and maintain in trust "[a]ll funds received or held for the benefit of clients . . . ." Rule 4-100(A)(2) requires that "when the right of the member or law firm to receive a portion of trust funds is disputed by the client, the disputed portion shall not be withdrawn until the dispute is finally resolved ."

[7] Section 6106 states in relevant part: "[t]he commission of any act involving moral turpitude, dishonesty or corruption . . . constitutes a cause for disbarment or suspension."

violated section 6106. The hearing judge dismissed this charge, finding "respondent's removing trust funds based on a good faith but unreasonable belief of entitlement to such funds did not constitute misappropriation and did not violate section 6106." We reverse the hearing judge's dismissal of the section 6106 charge because clear and convincing evidence demonstrates Dryovage intentionally misappropriated Burrell's funds.

The hearing judge found that Dryovage honestly believed "Burrell agreed to accept $25,000 as her share of the settlement proceeds and any remaining balance would be [her] attorney fee payment." We give great weight to this finding (*In the Matter of Respondent H* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234, 241). However, the hearing judge overlooked that Dryovage could only maintain her good faith belief until September 30, 2009, the date the fee dispute commenced.

Dryovage's actions after the fee dispute ensued demonstrate she intentionally misappropriated Burrell's settlement funds. First, 28 days after the dispute began, Dryovage had withdrawn $35,000 from her CTA. Second, she withdrew another $15,000 even though Burrell emailed her that the fee allocation remained unresolved. Third, Dryovage took an additional $17,000 after Mullanax made it clear that Burrell continued to dispute the settlement distribution, advised her of Burrell's willingness to pay a little over $37,000 in fees, and reminded her of her ethical obligation to keep the disputed funds in trust. Finally, it was not until OCTC interceded—nearly three years after the fee dispute began—that Dryovage attempted to settle the dispute with Burrell, and finally returned the disputed funds to her CTA. The entirety of her conduct after the fee dispute began demonstrates that Dryovage's misappropriation involved moral turpitude in violation of section 6106.

IV. SERIOUS AGGRAVATION AND SIGNIFICANT MITIGATION[8]

A. Aggravation

The hearing judge found two aggravating factors. We agree, but find Dryovage's multiple acts of wrongdoing are an additional aggravating circumstance. First, Dryovage caused Burrell significant harm by failing to settle the fee dispute that prevented Burrell from receiving her money and by compelling Burrell to seek the assistance of another attorney, thus incurring $1,500 in fees, in an effort to obtain her money. (Std. 1.5(j); *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 317 [significant harm found where client hires attorney to assist with asset recovery from previous attorney].) Second, Dryovage demonstrated indifference and lack of insight. It took her three years to reissue a check to Burrell that did not include the words "payment in full," and until October 2012 to deposit the disputed funds back into her CTA, even though she was advised to do so in March 2010 and August 2012. (Std. 1.5(k).) These factors warrant significant aggravation.

We view Dryovage's seven improper CTA withdrawals over a nine-month period as multiple acts of misconduct constituting moderate aggravation. (Std. 1.5(b); see *In the Matter of Kueker* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583, 594 [multiple acts in aggravation for one count of moral turpitude where attorney made 11 misrepresentations over an 18-month period].) We reject OCTC's argument that Dryovage engaged in overreaching by writing "payment in full" on the initial check because the same facts were used to find Dryovage demonstrated indifference.

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[8] Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Dryovage to meet the same burden to prove mitigation.

Effective July 1, 2015, the standards were revised and renumbered. Because this review was submitted for ruling after the July 1, 2015, effective date, we apply the revised version of the standards. All further references to standards are to the revised version of this source.

B. Mitigation

The hearing judge found four factors in mitigation. We agree with three of those factors, but afford no credit for good faith. Additionally, we find Dryovage's cooperation with the State Bar is a mitigating circumstance.[9]

The hearing judge found Dryovage's 25 years of discipline-free practice to be "very compelling." OCTC argues it is entitled to only limited weight because her misconduct is serious. We assign it considerable weight. Dryovage's misconduct, while serious, stemmed from a fee dispute involving a single client. In addition, it was aberrational in light of her entire record of unblemished practice. And finally, when her years of discipline-free practice are combined with the other mitigating factors discussed below, we are persuaded Dryovage is unlikely to commit future misconduct. (*Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029 [lack of prior discipline record is most relevant if misconduct is aberrational and unlikely to recur].)

Dryovage presented testimony from nine witnesses and declarations from five others who attested to her good moral character. They included two Cal OSHA administrative law judges, a Santa Clara County superior court judge, six employment attorneys, one University of San Francisco professor, one general practice attorney, a lawyer who works for the California Department of Industrial Relations, a civil rights attorney, and the president and founder of a consulting firm who works with nonprofit agencies. Five of the witnesses knew Dryovage over two decades. The attorney witnesses described her as "prominent in the employment bar," a "phenomenal attorney," and a "star" in representing federal sector employees. They praised her legal abilities, high moral character, integrity, and "deep commitment to social justice." The

[9] The hearing judge gave "nominal" mitigating weight to Dryovage's good faith. We find that Dryovage is not entitled to any mitigating credit for this factor. It was unreasonable for her to maintain she was entitled to retain all but $25,000 of the settlement funds when she knew early on that Burrell disputed her attorney fees. This unreasonableness precludes a finding of *any* good faith mitigation. (Std. 1.6(b) [mitigation for "good faith belief that is honestly held and objectively reasonable"].)

witnesses characterized Dryovage as a hard-working, "passionate civil rights lawyer" who takes cases because she "cares more about the issues than the money she can make." She has an excellent reputation in the legal community, and was described as working "tirelessly on behalf of her clients." We give particular attention to these attorney witnesses because they have a "strong interest in maintaining the honest administration of justice." (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319.) All of the witnesses were aware of the charges against Dryovage. Their opinions did not change after reading the NDC, response, and stipulation. If the allegations against her were proven, however, a few of the witnesses stated they would alter their opinion of her, but they expressed difficulty in believing the charges were true and deemed any misconduct aberrational. One witness characterized Dryovage's situation as a "terrible misunderstanding, huge mistake." We assign significant weight to Dryovage's good character. (Std. 1.6(f).)[10]

Third, the hearing judge found Dryovage presented "substantial evidence" of her pro bono work in the legal community. Dryovage and her character witnesses attested to her extensive work in various legal organizations, her active membership in civil rights and bar associations, her commitment to mentoring young lawyers, and her participation in law school

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[10] We reject OCTC's claims that the witness declarations are inadmissible hearsay in the absence of cross-examination. "Any relevant evidence must be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions." (Rules Proc. of State Bar, rule 5.104(C).) Even hearsay evidence must be admitted so long as it is relevant and reliable. However, it may only be "used for the purpose of supplementing or explaining other evidence, but over timely objection will not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions." (Rules Proc. of State Bar, rule 5.104(D).) Admission of the declarations was proper under rule 5.104(C) because the statements are relevant, and signed declarations are the type of evidence relied on in serious matters. (See, e.g., *Crocker Citizens Nat. Bank v. Knapp* (1967) 251 Cal.App.2d 875, 880 [motions are normally based on affidavits alone]; *McDonald v. Superior Court* (1994) 22 Cal.App.4th 364, 370.) Moreover, they were properly used to supplement Dryovage's other character evidence. (Rules Proc. of State Bar, rule 5.104(D).)

lectures and clinics. We adopt the pro bono mitigation finding and assign it substantial weight. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is mitigating factor]; *Rose v. State Bar* (1989) 49 Cal.3d 646, 667 [mitigating weight for demonstrated legal abilities and zeal in undertaking pro bono work].) [11]

Finally, as an additional mitigating factor, we assign moderate weight for cooperation because Dryovage stipulated to relevant facts establishing her culpability. (Std. 1.6(e); see *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive weight in mitigation accorded those who admit culpability as well as facts].)

V. A ONE-YEAR ACTUAL SUSPENSION IS APPROPRIATE DISCIPLINE[12]

Our analysis begins with the standards, which promote consistent and uniform application of disciplinary measures. (*In re Silverton* (2005) 36 Cal.4th 81, 91 [Supreme Court will not reject recommendation arising from standards unless grave doubts exist as to propriety of recommended discipline].) Standard 2.1(a) is most apt. It directly addresses intentional misappropriation, providing: "Disbarment is the presumed sanction . . . unless the amount misappropriated is insignificantly small or sufficiently compelling mitigating circumstances clearly predominate, in which case actual suspension is appropriate."

Here, Dryovage's $67,000 misappropriation was not insignificantly small. However, we find that her 25 years of discipline-free practice, laudatory good character, impressive pro bono activities, and cooperation are "sufficiently compelling" to avoid disbarment. (Std. 2.1(a).) The

[11] We reject OCTC's argument that performing pro bono work is no longer a mitigating circumstance. (See *In re Glass* (2014) 58 Cal.4th 500, 526 ["pro bono work is not truly exemplary for attorneys, but rather expected of them"].) In *Glass*, the Supreme Court determined that merely performing pro bono legal work for firm's clients is insufficient to establish exemplary conduct to prove rehabilitation in an admissions case. Here, in a disciplinary matter, we consider Dryovage's pro bono work as a factor that "warrant[s] a more lenient sanction" than specified in the standards. (Std. 1.2(i).)

[12] 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.)

Supreme Court has not disbarred attorneys who have intentionally misappropriated client funds for various circumstances deemed sufficient to warrant a lesser discipline. (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 37.) "In some cases, the attorney has presented evidence of compelling mitigating circumstances relating to the attorney's background or character . . . which tended to prove that the misconduct was aberrational and hence unlikely to recur." (*Id*. at pp. 37-38.)[13]

Under the facts of this case, disbarment is unnecessary to further the purposes of attorney discipline. Although intentional, Dryovage's misappropriation was not venal or surrounded by dishonesty. As the hearing judge found, her actions were the result of "misguided stubbornness." This was not a case involving an intentional theft, but a misappropriation shrouded in a fee dispute—a dispute that remains unresolved. Dryovage has cooperated during these proceedings and stipulated to the facts establishing her culpability. Her 25 years of discipline-free practice and good character evidence tend to demonstrate future misconduct is unlikely to recur. " '[A] sanction of one year's actual suspension and probation with conditions is not inconsistent with [the Supreme Court's] holdings in similar cases of . . . misappropriation by an attorney with no disciplinary record. [Citations.]' " (*McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1039; see also *Edwards v. State Bar, supra,* 52 Cal.3d 28 [one-year actual suspension for intentional misappropriation coupled with habitual negligence in handling CTA in single matter; prompt, full restitution, an 18-year clean record of practice, and voluntary steps taken to improve management of trust funds].) We view the recommended discipline as a significant sanction for a long-time practitioner with an unblemished career and sufficient to protect the public, the courts, and the legal profession.

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[13] See, e.g., *Weller v. State Bar* (1989) 49 Cal.3d 670 (three-year actual suspension for misappropriating about $14,000 from two clients; character testimonials and voluntary restitution); *Friedman v. State Bar* (1990) 50 Cal.3d 235 (three-year suspension for misappropriating $17,000; stress from marital problems and 20-year unblemished record).

VI. RECOMMENDATION

For the foregoing reasons, we recommend that Mary M. Dryovage be suspended from the practice of law for two years, that execution of that suspension be stayed, and that she be placed on probation for two years subject to the following conditions:

1. She must be suspended from the practice of law for the first year of her probation.

2. Within 30 days of the effective date of the Supreme Court order in this matter, she must contact Arrolene Burrell by certified mail, return receipt requested, and offer to initiate, pay for, and participate in State Bar Mandatory Fee Arbitration regarding the remaining $67,000 in settlement funds. Within 10 days after sending the correspondence, she must provide proof of mailing to the Office of Probation. If she is unable to contact Burrell, she shall provide a declaration to the Office of Probation setting forth her attempts to contact Burrell, including copies of the correspondence sent and the attempts made to locate her. If Burrell refuses to participate in Mandatory Fee Arbitration, she shall provide proof of Burrell's refusal to the Office of Probation. If Burrell agrees to Mandatory Fee Arbitration, the arbitration hearing shall be conducted no later than six months after the effective date of the discipline, unless agreed to in writing by Burrell and/or at the request of the arbitrator. Within 30 days of the service of the arbitration award, she shall provide a copy of the award to the Office of Probation, including proof of payment of any award in Burrell's favor. She shall remain suspended until she provides either proof of payment to Arrolene Burrell or other proof of settlement of the dispute.

3. If she remains suspended for two years or more as a result of not satisfying the preceding condition, she must also provide proof to the State Bar Court of rehabilitation, fitness to practice and present learning and ability in the general law before her suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

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

5. 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 her current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, she must report such change in writing to the Membership Records Office and the State Bar Office of Probation.

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

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

8. She 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, she must state whether she has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of 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.

9. Within one year after the effective date of the discipline herein, she must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and of the State Bar's Client Trust Accounting School and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and she shall not receive MCLE credit for attending Ethics and Client Trust Accounting Schools. (Rules Proc. of State Bar, rule 3201.)

10. 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 she 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 recommend that Dryovage be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order in this proceeding, or during the period of her suspension, whichever is longer, 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. CALIFORNIA RULES OF COURT, RULE 9.20

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

HONN, J.

WE CONCUR:

PURCELL, P. J.

EPSTEIN, J.