

PUBLIC MATTER - NOT DESIGNATED FOR PUBLICATION

FILED AUGUST 11, 2010

REVIEW DEPARTMENT OF THE STATE BAR COURT

In the Matter of)	Nos. 06-J-15200 (07-O-12614)
)	
FRANK PATRICK SPROULS,)	OPINION ON REVIEW
)	
A Member of the State Bar.)	
_____)	

This proceeding consists of two separate discipline cases filed against respondent Frank Patrick Sprouls. The first case arises out of a 2005 discipline order issued against Sprouls by the United States Court of Appeal for the Ninth Circuit (Ninth Circuit) for misconduct in over 50 immigration proceedings. The second case involves another immigration case that was not part of the Ninth Circuit's discipline order. After a three-day trial, the State Bar Court hearing judge adopted most of the Ninth Circuit's culpability findings and also found Sprouls culpable in the second case. The hearing judge recommended an entirely stayed suspension from practice, which was essentially the same degree of discipline imposed by the Ninth Circuit.

The State Bar seeks review, asserting that the hearing judge's discipline recommendation is inadequate due to the magnitude of Sprouls's misconduct, which constitutes a pattern of misconduct amounting to moral turpitude. It also contends that the hearing judge afforded Sprouls more mitigation and less aggravation than was warranted. The State Bar urges that Sprouls be suspended for two years and until he demonstrates his rehabilitation. Sprouls supports the discipline recommended by the hearing judge.

Upon our independent review of the record (Cal. Rules of Court, rule 9.12), we recommend a 90-day suspension as part of a one-year stayed suspension. Despite Sprouls's impressive evidence of mitigation, we give the aggravating evidence more weight than the hearing judge and conclude that a period of suspension is warranted under the applicable standards and case law.

I. BACKGROUND

Sprouls was admitted to practice law in California in 1993 and has no prior record of discipline. He and a partner built a law practice in downtown San Francisco, primarily handling immigration law matters with a minor focus on criminal law relating to immigration. Sprouls emphasized appellate work, representing non-U.S. citizens in hundreds of appeals before the Board of Immigration Appeals (BIA) and before the Ninth Circuit.

I. PROCEEDINGS AND FINDINGS

A. The Ninth Circuit Discipline Order (Case No. 06-J-15200)

1. Proceedings based on reciprocal discipline

In 2005, the Ninth Circuit imposed discipline on Sprouls for his misconduct in 2003 and 2004 in over 50 immigration cases. Its discipline order is “conclusive evidence that [Sprouls] is culpable of professional misconduct in this state.” (Bus. & Prof. Code, § 6049.1, subd. (a).)¹ The only issues to address in a proceeding based on discipline from another jurisdiction are: (1) whether the member's culpability in the other jurisdiction warrants imposing discipline in California under the laws or rules applicable in California at the time the member committed the misconduct; (2) whether the proceeding in the other jurisdiction lacked fundamental constitutional protection; and (3) the degree of discipline to be imposed in

¹ Unless otherwise noted, all further references to “section(s)” are to the Business and Professions Code.

California. (§ 6049.1, subd. (b).) The burden is on the member to establish that the issues in subsections (1) and (2) do not warrant discipline. (*Ibid.*) Sprouls has not disputed the culpability findings or the fundamental fairness of the Ninth Circuit proceedings, and thus, the only issue before us is the degree of discipline.

With slight modifications, the hearing judge adopted the findings and culpability determinations of the Ninth Circuit. In summary, the hearing judge found Sprouls culpable of 51 separate acts of misconduct:² 48 violations of rule 3-110(A) of the Rules of Professional Conduct,³ two violations of section 6068, subdivision (c), and one violation of rule 3-200(B). The State Bar does not challenge these culpability determinations on review, but argues that we should also find Sprouls culpable of a pattern of misconduct in violation of section 6106. As discussed below, we do not find a violation of section 6106, but we consider Sprouls's pattern of misconduct as an aggravating factor. Based upon our independent review, we adopt the findings of the hearing department and summarize them below.

2. Findings of Fact and Conclusions of Law

In April 2005, a three-judge panel of the Ninth Circuit filed an order to show cause (OSC) directing Sprouls to show why he should not be suspended, disbarred, or otherwise disciplined for conduct unbecoming a member of the Ninth Circuit's Bar. The OSC referenced 75 acts of misconduct in 65 different cases. The panel referred the matter to an appellate commissioner (Commissioner) for a hearing, report and recommendation.

² Although the hearing judge concluded that there were 53 acts of misconduct, we assume this was a miscalculation. (See footnote 4.)

³ Unless otherwise noted, all further references to "rule(s)" are to the State Bar Rules of Professional Conduct.

Sprouls acknowledged at the hearing before the Commissioner that he had made calendaring errors in the cases identified in the OSC. He attributed his errors to “an unprecedented influx of cases in his office due to the Executive Office for Immigration Review’s (EOIR) pilot program in the San Francisco immigration court during 2003 and 2004.” The Commissioner found that “The [pilot] program resulted in a tide of decisions from the [BIA] that were ripe for review by [the Ninth Circuit]. The effect on Sprouls’s firm was overwhelming, and led to numerous calendaring and ministerial lapses in the cases [identified in the OSC].” Relying on the California Rules of Professional Conduct and the State Bar Act, the Commissioner found Sprouls culpable of over 60 different acts of professional misconduct. Ultimately, the Commissioner concluded that “the mitigating circumstances weigh against a period of suspension, which would not benefit the [Ninth Circuit] or Sprouls’s current clients.” The Commissioner recommended that Sprouls be placed on 12 months’ probation with no suspension. The Commissioner’s decision and recommendation was filed August 22, 2005, and adopted by the Ninth Circuit on September 23, 2005.

Sprouls’s misconduct is divided into four general categories: (a) petitions for review that were dismissed for lack of jurisdiction or summarily denied; (b) petitions for review that were dismissed for failure to prosecute; (c) opening briefs that were filed late; and (d) performance that was lacking for other reasons.

**a. Petitions for Review Summarily Denied or Dismissed
for Lack of Jurisdiction**

Sprouls acted improperly in 46 cases based on findings that his clients’ petitions for review were dismissed for lack of jurisdiction or summarily denied “because the result was obvious based on the facts or prior law.” The findings in these cases are summarized as follows:

- In 38 cases, Sprouls acted incompetently in willful violation of rule 3-110(A) by filing deficient briefs that failed to address how the statutory interpretation he was arguing could be distinguished from established case law.
- In five cases, Sprouls acted incompetently in violation of rule 3-110(A) when he:
 - (1) recklessly failed to file responses to the government's motions to dismiss to defend his clients' rights in two cases, (2) filed a misleading and frivolous opening brief in one case, and (3) inexcusably and recklessly failed to oppose the governments' motions to summarily dismiss petitions for review in two cases.
- In two cases, Sprouls failed to maintain only those actions that are legal or just in willful violation of section 6068, subdivision (c), when he: (1) filed a frivolous opposition to the government's dismissal motion in one case, and (2) failed to dismiss a petition for review before the Ninth Circuit after he obtained a BIA order reopening proceedings before the immigration judge in the other case.
- In one case, Sprouls presented a claim not warranted under existing law in willful violation of rule 3-200(B) when he failed to dismiss a petition after he realized it was improperly filed.

b. Petitions Dismissed for Failure to Prosecute or Comply with Orders

Sprouls performed incompetently in willful violation of rule 3-110(A) in three cases where the petitions for review were dismissed because he either failed to prosecute them or failed to comply with court orders as follows:

- In one case, he failed to act diligently to reinstate the petition after it was dismissed based on his failure to timely file an opening brief.
- In another case, after losing contact with his clients, he consciously decided not to file an opening brief, rather than withdrawing as counsel or moving to dismiss.

- In the third case, he filed a response to a Ninth Circuit OSC regarding dismissal of his client’s case but used an incorrect case number and then failed to move to reinstate the case as he deemed it “an idle exercise.”

c. Tardy Opening Briefs

The OSC identified seven cases in which Sprouls filed briefs late and without leave of court. The Commissioner found that Sprouls corrected his tardiness by filing unopposed motions to file the briefs late, and the cases were then decided on the merits. The Ninth Circuit and the hearing judge found that Sprouls did not commit professional misconduct in these seven cases.

d. Lack of Performance

The OSC identified 11 cases in which Sprouls’s professional performance was deficient. Of the 11 cases, Sprouls performed incompetently in willful violation of rule 3-110(A) in two of the cases.⁴

In the first matter (*Gutierrez*), Sprouls moved to reopen immigration proceedings before the BIA, arguing that the immigration judge (IJ) denied his client due process. Sprouls failed to preserve the due process issue because he did not file a petition for review in the Ninth Circuit after the BIA denied the motion to reopen. As a result, the Ninth Circuit had no jurisdiction to consider this issue later when Sprouls raised it to challenge the IJ’s underlying decision. His justification for not properly pursuing the issue made “little sense” and demonstrated a lack of knowledge of the law on jurisdiction. Sprouls’s lack of competence caused the forfeit of his client’s claim and resulted in potential injury.

⁴ The hearing department clearly found culpability in two cases (*Gutierrez v. Ashcroft* and *Garcia Lopez v. Ashcroft*), but the State Bar argues that there were two additional cases with culpability (*Tulfo v. INS* and *Torres Martinez v. Ashcroft*). Since the record is unclear with respect to *Tulfo* and *Torres*, we find culpability in only two of the 11 cases listed in the OSC. Thus, we find a total of 51 acts of misconduct, not 53 acts as stated in the hearing department decision.

In the second matter (*Garcia Lopez*), Sprouls acted incompetently by filing a fundamentally inadequate opening brief that lacked appropriate record citations, contained insufficient legal and factual discussions and failed to discuss applicable law.

3. State Bar Argues for Culpability under Section 6106

The State Bar argues that the hearing judge erred in not addressing or finding that Sprouls violated section 6106 because: 1) it was “plainly alleged” in the notice of disciplinary charges, and 2) his pattern of gross negligence clearly constitutes moral turpitude. However, the notice failed to sufficiently allege a violation of section 6106. Although the State Bar listed section 6106 as a statute that had been violated, it failed to set forth any supporting allegations or the manner in which Sprouls’s conduct violated the statute. In addition, the Ninth Circuit did not allege or find a violation of section 6106. Under the circumstances, we find that the notice failed to provide sufficient support for the alleged violation and dismiss it with prejudice. However, we consider Sprouls’s pattern of misconduct in aggravation. (*In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 155 [although not mentioned in notice, attorney’s repeated failure to perform that resulted in significant harm was appropriate aggravating factor].)

B. The Granados Matter (Case No. 07-O-12614)

The State Bar filed this original proceeding in September 2008, alleging Sprouls committed misconduct in handling a client’s asylum case. The hearing judge’s findings of fact and culpability are undisputed, which we adopt and summarize below.

1. Findings of Fact

Saul Granados, a non-U.S. citizen, entered the United States in 1989 without immigration inspection. In 2003, he hired a Southern California “notario”⁵ to seek legalization as an asylum applicant but the notario abandoned him, forcing Granados to appear in pro per before an immigration judge. An order was later issued that Granados be removed from the United States.

In January 2004, Granados hired Sprouls and paid him \$2,500. The next month, Sprouls filed a motion to reopen in the immigration court to rescind the removal order, alleging the notario’s ineffective assistance. The motion included two false statements: Granados had lived in Northern California his entire life, and Granados’ father (who had been dead for 30 years) would soon become a permanent legal resident. The accompanying declaration purported to be that of Granados. However, it is undisputed that Granados did not see or sign the declaration and his signature was forged by someone in Sprouls’s office. Sprouls had delegated much of the preparation of the motion and the accompanying declaration to non-lawyers in his office, and, although he had no reason to suspect the signature was forged, he attributed the inaccurate information to careless mistakes resulting from his overextended practice.

In December 2004, after being denied relief by the IJ and the BIA, Sprouls petitioned for review in the Ninth Circuit. In November 2005, he filed an opening brief for Granados, which included the same false statements of fact.

In December 2006, the Ninth Circuit appointed pro bono counsel for Granados. Through his new counsel, Granados learned for the first time that Sprouls’s motion contained misstatements and that Granados’ declaration bore a forged signature. Two months later,

⁵ No evidence established whether the notario was an attorney or a notary public.

Granados decided to continue the appeal with his pro bono counsel only and discharged Sprouls. Granados' new counsel filed a supplemental brief in the Ninth Circuit alleging ineffective assistance of counsel (IAC) by Sprouls.

In October 2007, the Ninth Circuit issued a memorandum granting Granados' petition for review and remanding the matter to the BIA for further proceedings. In that memorandum, the Ninth Circuit held that Sprouls's deficient performance was "plain on the face of the administrative record and rises to the level of a due process violation because Granados 'was prevented from reasonably representing his case.' [Citations.]" In addition, the Ninth Circuit held that Sprouls "presented an incomplete and grammatically flawed motion to reopen, failed to comply with any of the *Lozada* requirements [*Matter of Lozada* (BIA 1988) 19 I&N Dec. 637] for an IAC claim, failed to investigate or elicit material facts relevant to Granados' individual case, failed to provide Granados a translated version of the motion to reopen to Granados, and on his own initiative included false statements of fact." The Ninth Circuit also concluded that Sprouls's failures prejudiced his client because they caused Granados to be denied the relief he sought.

2. Conclusions of Law

The hearing judge concluded that Sprouls willfully violated rule 3-110(A) when he filed the motion to reopen without complying with the IAC requirements. Sprouls delegated the preparation of legal documents to non-lawyers in his office and failed to supervise them adequately. However, based largely on a positive credibility determination of Sprouls, the hearing judge found Sprouls did not commit moral turpitude or seek to mislead a court. The State Bar does not challenge these culpability findings, and based on our independent review, we adopt the hearing judge's conclusions.

C. Mitigation and Aggravation

We determine the appropriate discipline in light of all relevant circumstances, including mitigating and aggravating factors. (*Gary v. State Bar* (1988) 44 Cal.3d 820, 828.) The State Bar must establish aggravation by clear and convincing evidence, while Sprouls has the same burden of proof for mitigating circumstances. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, stds. 1.2(b) & 1.2(e).⁶)

1. Mitigation

In mitigation, the hearing judge considered several factors that she deemed compelling, and with minor modifications, we adopt the following findings: Sprouls has no prior record of discipline in 10 years (std. 1.2(e)(i)); he presented significant evidence of his good character and pro bono service (std. 1.2(e)(vi)); and he showed remorse and acknowledgement of his wrongdoing, along with remedial steps to rectify the consequences of his actions (std. 1.2(vii)). Finally, we also give weight to the mitigating circumstances surrounding the EOIR's pilot program and the impact it had on Sprouls's practice.

Sprouls's character evidence from 14 attorneys and a San Francisco Superior Court judge is worthy of serious consideration. Although some of the witnesses were not very familiar with Sprouls's misconduct, those who did know about it still maintained high opinions of his character and integrity. All of the witnesses had great regard for Sprouls's knowledge of immigration law and his unselfishness in sharing it with other attorneys. Several witnesses considered him their mentor when they began to practice immigration law. All of the witnesses

⁶ All further references to standards are to this source.

who testified considered Sprouls to be devoted to his clients, including those he served on a pro bono basis.

In further support of his character, Sprouls presented evidence of his pro bono service to the San Francisco Bar Association's Pro Bono Immigration Project. The State Bar asserts that Sprouls's pro bono service should be offset by his disregard of his clients as evidenced in the culpability findings. We do not agree, and accord him mitigation for his pro bono service.

We give no mitigating weight to the passage of almost five years since the misconduct in the Ninth Circuit discipline order because the problems with Sprouls's office continued in Granados' case until at least November 2005 – after the OSC and the Ninth Circuit discipline order – when he filed his flawed opening brief. We also decline to provide any mitigation for Sprouls's “demonstrated legal abilities and dedication to clients.” In over 50 immigration cases, his legal skills were called into question and, as found by the Commissioner, demonstrated that “Sprouls did not understand some aspects of immigration law and appellate procedure.”

2. Aggravation

In aggravation, the hearing judge concluded that Sprouls committed multiple acts of misconduct (std. 1.2 (b)(ii)), and significantly harmed the Ninth Circuit's administration of justice (std. 1.2(b)(iv)).

We agree with the hearing judge's finding that Sprouls's multiple acts of misconduct constitute an aggravating factor, as well as a pattern of misconduct. (*Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149, fn. 14 [for purposes of aggravation, result is same whether misconduct is characterized as multiple acts or a pattern of misconduct].) However, the finding of a pattern in this particular case is slightly diminished due to the nature and timing of the actions. In 38 of the 51 cases before the Ninth Circuit, the misconduct resulted from Sprouls's failure to adequately argue the same statutory interpretation in his opening briefs. As found by the Commissioner,

Sprouls did not act incompetently by *raising* the statutory interpretation issue, but acted incompetently by failing to sufficiently explain how his argument could be distinguished from existing law. Moreover, all of this misconduct occurred during a relatively short period of time during the EOIR's pilot program from 2003-2004, when Sprouls experienced an unforeseen increase in his workload. Thus, the "pattern" in this case is distinguishable from the most serious instances of repeated misconduct over a prolonged time that support lengthy periods of suspension or disbarment. (*Stanley v. State Bar* (1990) 50 Cal.3d 555 [attorney disbarred for 30 egregious acts of misconduct and abandonment of 20 clients over a seven-year period, in addition to acts of moral turpitude including misappropriating settlement funds by forging clients' names].) Nonetheless, we consider this pattern a significant aggravating factor.

We also agree with the judge's finding that Sprouls's misconduct significantly harmed the Ninth Circuit's administration of justice. Although the State Bar did not provide any evidence of specific harm to clients, we agree with the Ninth Circuit that Sprouls's misconduct prejudiced Granados. We also note that Granados would likely have been harmed had the Ninth Circuit not supervised the matter and appointed pro bono counsel to remedy Sprouls's deficiencies.

II. DEGREE OF DISCIPLINE

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve confidence in the profession and to maintain the highest possible professional standards. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) In determining the degree of discipline to recommend, we consider as guidelines the standards as well as prior decisions imposing discipline based on similar facts. (*In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

In this case, several standards apply to the culpability findings and provide for a wide range of discipline. Standards 2.4(b) and 2.10 call for reproof or suspension for the rule violations. The most severe sanction is set forth in standard 2.6 for a violation of section 6068 and provides for suspension to disbarment, depending on the gravity of the offense and harm to the victim. In light of the broad range of discipline recommended by the standards, we look to prior decisions for further guidance.

To support its contention that the appropriate level of discipline should include a two-year period of suspension, the State Bar urges that we consider *Cannon v. State Bar* (1990) 51 Cal.3d 1103 and *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, as well as *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498. While those cases arise from misconduct in immigration law practices, they involve far more serious and deliberate conduct causing significant client harm with far less mitigation.⁷

Unlike the attorneys in the cases cited by the State Bar, Sprouls has presented compelling mitigating evidence that clearly outweighs the aggravating factors. The Commissioner and the hearing judge each observed Sprouls and were impressed with his acceptance of responsibility for his shortcomings, his remedial steps to avoid recurrence of his misconduct and his character evidence. He has no prior record of discipline. His practice was negatively impacted by the

⁷ See *Cannon v. State Bar, supra*, 51 Cal.3d at p. 1115 [attorney disbarred for repeatedly refusing to communicate with clients, to perform legal services and to return unearned fees, evidencing multiple acts of serious misconduct, many of which involved moral turpitude, with only minimal mitigation for no prior discipline in six years of practice]; *In the Matter of Gadda, supra*, 4 Cal. State Bar Ct. Rptr. at pp. 444-445 [attorney with prior record disbarred based on grave misconduct in nine client matters over six-year period, resulting in five clients being deported in absentia]; *In the Matter of Valinoti, supra*, 4 Cal. State Bar Ct. Rptr. 498 [three-year suspension for attorney's misconduct in nine client matters and aiding unlicensed persons to practice immigration law, aggravated by substantial client harm and misrepresentation to immigration judge and State Bar, and failure to advise thousands of clients of his office address change or to safeguard their important papers].

EOIR's pilot program and the unexpected increase in his workload. Further, we cannot ignore the fact that the Ninth Circuit, which was most directly affected by his misconduct, declined to suspend Sprouls and adopted the Commissioner's findings that:

The EOIR pilot program, which contributed to the bulk of Sprouls's misconduct, has ended, and Sprouls testified at the hearing that this caseload has dropped significantly as a result. Sprouls also has taken affirmative steps to ensure that cases and deadlines are properly calendared in the future, and he assured the court that the conduct addressed in these proceedings would not recur. Sprouls is zealous and dedicated to his clients, is often effective on their behalf, and has the desire and ability to ensure that his misconduct will not recur. On balance, the mitigating circumstances weigh against a period of suspension, which would not benefit the court or his current clients.

Thus, considering the nature and extent of Sprouls's misconduct before the Ninth Circuit and his compelling mitigation, we conclude that a lesser actual suspension than recommended by the State Bar will protect the public and maintain the high standards of the legal profession.

In the final analysis, we determine disciplinary sanctions after considering all factors in the case. (*Codiga v. State Bar* (1978) 20 Cal.3d 788, 796.) The hearing judge relied on the compelling mitigation to support her recommendation of an entirely stayed suspension, but did not cite to any cases. We find slightly less mitigation than the hearing judge, give more weight to the aggravating evidence, and conclude that a period of actual suspension is warranted. Balancing all of the appropriate factors, we recommend a 90-day suspension as a condition of a

one-year stayed suspension and two years' probation, along with the other conditions recommended by the hearing judge.⁸

III. RECOMMENDATION

We recommend that Frank Patrick Sprouls be suspended from the practice of law in California for one year, that execution of such suspension be stayed and that he be placed on probation for two years on the following conditions:

1. Sprouls must be suspended from the practice of law for the first 90 days of the period of his probation.
2. Sprouls must comply with the provisions of the State Bar Act and the Rules of Professional Conduct.
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 of the State Bar and the State Bar's Office of Probation.
4. Sprouls 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 respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same

⁸ See *Gadda v. State Bar* (1990) 50 Cal.3d 344 [six-month suspension for immigration attorney who had been practicing for only five and one-half years when he neglected at least nine clients, instructed a client to lie to an American consul, failed to supervise an associate to whom he assigned a client matter, advertised falsely in over 500 letters, and repeated deliberate misrepresentations to clients, mitigated only by his pro bono work and aggravated by his failure to recognize seriousness of wrongdoing and accept responsibility]; *In the Matter of Wolff* (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1 [18-month suspension for attorney with 10 years of practice who refused to appear for 39 clients and abandoned over 300 matters, with mitigation for no prior record and delay in proceedings, and significant aggravation in her multiple acts, harm to administration of justice, and indifference and lack of remorse].

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.

5. Subject to the assertion of applicable privileges, Sprouls must answer fully, promptly, and truthfully, any inquiries of the Office of Probation which are directed to him personally or in writing, relating to whether he is complying or has complied with the conditions contained herein.
6. Within one year of the effective date of the discipline herein, Sprouls must submit to the Office of Probation satisfactory evidence of completion 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.)
7. 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 Sprouls has complied with all conditions of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

We also recommend that Sprouls be required to take and pass the Multistate Professional Responsibility administered by the National Conference of Bar Examiners within one year after 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.

We also recommend that Sprouls be ordered to comply with 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, from the effective date of the Supreme Court order. Failure to do so may result in disbarment or suspension.

Finally, we 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 of that code and as a money judgment.

REMKE, P. J.

We concur:

EPSTEIN, J.

PURCELL, J.