

FILED MAY 5, 2011

**STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT**

In the Matter of)	Case No. 10-PM-03937
)	
JAMES ALLEN TEEL,)	OPINION
)	
A Member of the State Bar, No. 150696.)	
_____)	

I. STATEMENT OF THE CASE

From 1999 to 2006, James Allen Teel committed acts that led to several criminal convictions, including two offenses for driving under the influence (DUI). These convictions were referred to the State Bar and the Supreme Court imposed a two-year stayed suspension subject to five years' probation with conditions, including several relating to substance abuse. In April 2010, the Office of Probation (Probation) instituted revocation proceedings alleging that Teel failed to comply with three conditions: (1) timely submitting proof of attendance at Alcoholics Anonymous (AA) meetings; (2) providing proof of compliance with his criminal probation requirements; and (3) participating in random drug and alcohol testing.

The hearing judge found Teel culpable of violating all three conditions. In aggravation, the State Bar proved two factors – a prior record of discipline and multiple acts of misconduct. Teel proved no mitigation, but most violations were minor and he made continued efforts to comply with his probation. The hearing judge recommended a 60-day actual suspension subject to a new two-year stayed suspension and a new five-year probation period.

Teel seeks review contending that: (1) the State Bar Office of Probation (Probation) lacked jurisdiction to institute probation revocation proceedings; (2) the probation conditions were unconstitutional; (3) he did not willfully violate any probation conditions; and (4) a 60-day actual suspension is not warranted. The State Bar did not seek review but requests that we recommend suspending Teel for two years, which is the duration of his stayed suspension.

II. ISSUES ON REVIEW

After independently reviewing the record (Cal. Rules of Court, rule 9.12) and considering the parties' briefs on review, the questions before us are:

1. Is Probation authorized to institute probation revocation proceedings against Teel?
2. Did the probation conditions violate due process as vague and overbroad?
3. Did Teel willfully violate the charged probation conditions?
4. If Teel is culpable, should he be actually suspended for 60 days?

III. SUMMARY OF THE DECISION

Probation properly instituted revocation proceedings against Teel. Upon the evidence presented at that proceeding, the hearing judge correctly found that Teel had violated his probation conditions, which were neither vague nor overbroad. Consequently, the hearing judge revoked Teel's probation and imposed discipline. Although two violations were minor, the third – failing to take a random drug and alcohol test – was more serious because it monitors Teel's sobriety following two DUI convictions. By failing to test, Teel has prevented such monitoring. We conclude that a 60-day actual suspension is necessary both to impress upon Teel that he must fulfill his probation conditions and ultimately to protect the public, the courts and the legal profession.

IV. BACKGROUND

Teel was admitted to practice law in California in 1990. He has one prior discipline record, which was imposed after he was convicted of the following crimes:

<i>Statutory Violation</i>	<i>Criminal Conduct</i>	<i>Violation Date</i>
Penal Code § 243(e)(1)	Battery against spouse/cohabitant	2/18/99
Penal Code § 166(c)(1)	Contempt of court/ violation of protective order	4/29/01
Vehicle Code § 23152(a) Penal Code § 273(a)(b) Penal Code § 166(4)	DUI Child endangerment 2nd contempt of court/ violation of protective order	3/22/02
Vehicle Code § 23152(a)/(b) ¹	DUI	9/28/03
Penal Code §§ 240/242	Assault and battery	4/6/06

On March 10, 2009, Teel stipulated that his criminal convictions constituted misconduct warranting discipline.² The stipulated discipline included two years' stayed suspension subject to a five-year probation with conditions, several of which were designed to monitor Teel's sobriety. Teel was to submit quarterly reports, abstain from alcohol and the use and possession of narcotics, attend at least four AA meetings per month and provide proof of attendance, undergo random drug and alcohol testing and comply with all the conditions of his criminal probations.

On September 29, 2009, the California Supreme Court ordered the stipulated discipline to be effective October 29, 2009. On April 12, 2010, Probation filed a motion to revoke Teel's

¹ In his prior disciplinary proceeding, Teel stipulated that he suffered two separate DUI convictions on September 28, 2009. The first is a violation of Vehicle Code section 23152, subdivision (a) (driving under influence of alcohol or drugs) and the second is a violation of section 23152, subdivision (b) (driving with blood alcohol level of .08% or greater). However, subdivisions (a) and (b) of section 23152 are typically charged together but in the alternative, with the superior court dismissing one charge upon a plea to the other. Teel's conviction for two DUI offenses appears to cover only one DUI incident on September 28, 2003. Therefore, for our discipline analysis, we consider that Teel had only one DUI conviction on that date.

² The convictions did not involve moral turpitude.

probation after he failed to comply with probation conditions. On May 14, 2010, Teel filed his opposition and requested a hearing, which was held on June 10, 2010.

V. JURISDICTIONAL AND CONSTITUTIONAL CHALLENGES

Teel asserts a number of challenges to these proceedings. He first alleges that State Bar attorney Terrie Goldade did not have the authority to “appear as a prosecutor” in his revocation proceeding because she is “an employee of the Probation Department, and is not employed as a prosecutor in the Office of Trials.” We reject this challenge. Just as the State Bar has authority to file notices of disciplinary charges in the State Bar Court for attorney misconduct (Rules Proc. of State Bar, rule 2101),³ Probation has authority to charge violations in a probation revocation proceeding under rule 560.

Next, Teel asserts that his probation conditions are unconstitutionally vague and overbroad as applied. We do not agree. The test for vagueness turns on whether the condition is “sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated.” (*People v. Reinertson* (1986) 178 Cal.App.3d 320, 324-325.) And the test for overbreadth requires that probation conditions impinging on constitutional rights must be carefully tailored and reasonably related to the compelling state interest in reformation and rehabilitation. (*People v. O’Neil* (2008) 165 Cal.App.4th 1351, 1356.) Despite these *legal* tests, Teel focuses his due process claims on the *factual* reasons for his failure to comply. As detailed below, he failed to comply due to personal circumstances and not because the probation conditions lacked clarity, specificity or purpose. Those conditions are unambiguous and “sufficiently precise for [Teel] to know what is required

³ Unless otherwise noted, all further references to “rule(s)” are to the Rules of Procedure of the State Bar. These rules were amended effective January 1, 2011. However, since this request for review was filed prior to the effective date, the former rules apply.

of him,” and are “closely tailor[ed] . . . to the purpose of the condition[s].” (*In re Sheena K.* (2007) 40 Cal.4th 875, 890.)

VI. PROBATION VIOLATIONS

The State Bar must prove willful probation violations by a preponderance of the evidence. (Rule 561.) Bad faith or evil intent is not required to find culpability. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.) Rather, a general willingness to commit an act or permit an omission is sufficient. (*In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 309.) Such willfulness does not require either knowledge of the probation provisions or that the attorney intended the consequences of his or her acts or omissions. (*Ibid.*) All that is necessary is “proof that [the attorney] intended the act or omission itself.” (*Ibid.*) As analyzed below, Teel willfully violated all three probation conditions.

A. TEEL FAILED TO TIMELY COMPLY WITH AA REPORTING

One probation condition required Teel to provide proof that he attended at least four AA meetings per month by the 10th day of the following month. He filed his February 2010 AA attendance record on March 11, 2010, one day late.

Teel contends that he is not culpable since he mailed his proof on March 8, 2010, and no evidence proved the date Probation actually *received* it. But Teel’s attendance record was stamped “Filed March 11, 2010 Office of Probation,” and this fact was not refuted. We find that Probation received the document on March 11, 2010, but acknowledge that the tardy filing is a minor probation violation. (See *In the Matter of Potack, supra*, 1 Cal. State Bar Ct. Rptr. at p. 537 [substantial compliance with probation condition insufficient to avoid culpability].)

B. TEEL FAILED TO PROVIDE EVIDENCE THAT HE COMPLIED WITH HIS CRIMINAL PROBATION CONDITIONS

A second probation condition required Teel to fulfill his criminal probation conditions and confirm he had done so in his quarterly reports. In fact, Teel had resolved his criminal probation matters by the time his discipline became effective, and provided proof to the Office of the Chief Trial Counsel of the State Bar (State Bar) during the disciplinary proceedings.

Even so, in February 2010, Probation requested proof that Teel had completed his criminal probation. In response, Teel sent information pertaining to only one criminal case, believing that the State Bar had already given Probation the information on his four other cases. Probation mistakenly concluded that Teel had fully reported since it was not aware that he had a total of five criminal probation cases. As a result, in March 2010, Probation advised Teel that he did not have to confirm compliance with his criminal probation in future quarterly reports.

Probation quickly realized its error and on March 24, 2010, sent Teel a letter stating that he must confirm his criminal probation compliance in quarterly reports until he provided proof that he had completed all probation matters. Teel received this letter, but failed to read it carefully. When he submitted his April 10, 2010 quarterly report, he marked “N/A” regarding “Conditions of Probation/Parole in Underlying Criminal Matter.”

Teel asserts that he is not culpable because he provided proof of his criminal case probations to the State Bar during the disciplinary proceedings. Although the record shows a misunderstanding between Probation and Teel, he had a duty to comply with Probation’s request for proof or to complete the quarterly report as instructed. By failing to do either, Teel willfully violated this condition, which we deem to be minor due to the misunderstanding.⁴

⁴ The record reveals that Teel sent Probation proof that he complied with three criminal probations on May 14, 2010, but no evidence shows that he ever provided proof for the final criminal case.

C. TEEL FAILED TO COMPLY WITH RANDOM DRUG TESTING

A third probation condition required Teel to take random alcohol and drug tests, as follows:

During the first three years of Respondent's probation period, he shall be randomly tested for the use of alcohol no less than 5 and no more than 10 times per year.

Respondent must select a licensed medical laboratory approved by the Office of Probation.

Respondent must maintain with the Office of Probation a current address and current telephone number at which he can be reached.

Respondent must return any call from the Office of Probation concerning testing of Respondent's blood or urine within 12 hours. Within 36 hours of the Office of Probation's initial call to Respondent, Respondent must furnish to the approved medical laboratory blood and/or urine samples, as may be required to show that Respondent has abstained from drugs and/or alcohol. Specifically, Respondent is to submit to an EtG (Ethyl Gluceronide) test and a 10-panel drug test. Two samples will be taken for each test. The first of each sample is to be tested, the second specimen is to be stored in a manner which will ensure the specimen may be accurately tested in the future.

The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at Respondent's expense, a screening report containing an analysis of Respondent's blood and/or urine within 15 days after the sample was taken.

1. Teel Did Not Take the EtG Test

Teel did not obtain an EtG test according to his probation terms. However, he twice requested that test, along with a 10-panel drug test, from the testing facility. For various reasons, the facility failed to perform the test. Teel did not know about this omission because the reports used common descriptions, rather than technical names, for the tests. The hearing judge found Teel not culpable and the State Bar does not challenge this finding. We agree.

2. Teel Failed to Ensure that the Lab Mailed his Lab Results

In the random testing that Teel completed in December 2009 and January 2010, he failed to arrange for the lab to mail the results to Probation and instead *personally* sent the reports.

Teel asserts that Probation approved the facility, and it was therefore responsible to make sure the results were mailed directly from the lab. We disagree. Teel himself selected and submitted the testing facility to Probation for approval. As required in his conditions, Teel, not Probation, was responsible for ensuring that the facility sent his test results directly to Probation. (See, e.g., *In the Matter of Rodriguez* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480, 497 [probationer's responsibility to arrange meeting with probation monitor referee and substantial delay before meeting was probation violation].) We also find this to be a minor probation violation.

3. Teel Failed to Take a Random Drug and Alcohol Test

A very important probation condition required Teel to submit to random drug and alcohol testing upon 36 hours' notice from Probation. On March 1, 2010, at 12:00 p.m., Teel drove from Orange County to Palm Desert for a vacation. Later that afternoon, Probation called his office and left a message for him to call back within 12 hours regarding testing. Probation then called Teel's cell phone, but could not leave a message because his voicemail box was full.

The following day, March 2, 2010, Probation called Teel's office a second time, but he was not in. Probation also tried to reach him on his cell phone, but once again, his mailbox was full. Probation then called his office for a third time and left a message with his receptionist that Teel must submit to a drug and alcohol test. At approximately 2:00 p.m., someone in Teel's office informed him by email that Probation had called, that he must test, and that the 36-hour notice period began the previous day, March 1. After receiving the email, Teel left Palm Desert and drove to his testing facility hoping to get there before it closed at 4:00 p.m. He did not arrive in time.

Believing he could not test at another facility without prior approval, Teel did not complete any testing on March 2, 2010. The stressful circumstances provoked an anxiety attack,

and he went to a nearby emergency room. Teel called Probation to report his medical emergency, explaining that he could not complete the test because he would be in the hospital for three to four days upon verification of his insurance. Two days later, on March 4, 2010, the hospital admitted Teel for detoxification of Xanax and Vicodin. When Teel was released on March 8, 2010, he called Probation and left a message, but Probation did not return his call. Teel never completed his March drug and alcohol test, and the hearing judge found him culpable of violating this condition.

Teel contends he was not given the required 36 hours to perform the drug test because Probation called on March 1, 2010 while he was on vacation and he could not get to the testing facility before it closed on March 2nd. Teel also claims that he could not test because he checked into the hospital on March 4th, and was not released until four days later.

We reject Teel's claims and find that he was given adequate time to complete the test. First, Probation was not required to consider the closing hours for his testing laboratory when it called Teel's office on March 1st at 12:00 p.m. Teel chose the facility, making him responsible to know its hours of operation. Second, if Teel's cell phone mailbox had not been full, he would have received Probation's message at noon on March 1st, giving him adequate time. Finally, Teel did not take the test on March 3rd when the facility reopened and before he checked into the hospital on March 4th. Even if he missed those opportunities, Teel could have tested following his March 8th hospital release. He did none of these things. Under these circumstances, the hearing judge correctly found that Teel violated his probation.

VII. AGGRAVATION AND MITIGATION

We determine the appropriate discipline in light of the relevant circumstances, including mitigating and aggravating factors. (*Gary v. State Bar* (1988) 44 Cal.3d 820, 828.) Teel must establish mitigation by clear and convincing evidence (Rules Proc. of State Bar, tit. IV, Stds. for

Atty. Sanctions for Prof. Misconduct, std. 1.2(e)),⁵ while Probation has the same burden to prove aggravating circumstances. (Std. 1.2(b).)

A. NO FACTORS IN MITIGATION

The hearing judge found that Teel did not present any factors in mitigation. We agree.

B. FACTORS IN AGGRAVATION

The hearing judge found two factors in aggravation: (1) a prior record of discipline; and (2) multiple acts of misconduct. We adopt these findings.

1. One Prior Discipline Record (Std. 1.2(b)(i))

Teel's prior record of discipline underlies this probation revocation proceeding. He stipulated to a two-year-stayed suspension and five-years' probation for his criminal convictions between February 1999 and April 2006. At the time of the stipulation, Teel had been licensed for almost 20 years without discipline. In mitigation, he displayed candor and cooperation, was experiencing a stressful divorce and custody litigation and presented evidence of good character. No aggravating circumstances were present.

2. Multiple Acts of Misconduct (Std. 1.2(b)(ii))

Teel's misconduct included multiple acts of wrongdoing. He failed to comply with three probation conditions, as previously discussed.

VIII. DISCIPLINE – PRINCIPLES OF LAW AND ANALYSIS

The purpose of discipline is not to punish the attorney, but to protect the public. (Std. 1.3.) No fixed formula exists for determining the appropriate level of discipline. (*In the Matter of Brimberry* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390, 403.) Ultimately, we balance all relevant factors, including mitigating and aggravating circumstances, on a case-by-

⁵ Unless otherwise noted, all further references to “standard(s)” are to this source.

case basis to ensure that the discipline imposed is consistent with its purpose. (*In re Young* (1989) 49 Cal.3d 257, 266.)

Our discipline analysis begins with the standards. While we recognize that they are not binding on us in every case, the Supreme Court has instructed us to follow them “whenever possible.” (*In re Young, supra*, 49 Cal.3d at p. 267, fn. 11.) In fact, the standards should be given great weight to promote “the consistent and uniform application of disciplinary measures.” (*In re Silvertan* (2005) 36 Cal.4th 81, 91 [internal citation and quotations omitted].)

Two standards apply here. First, standard 2.10 provides that misconduct by violations not otherwise specified shall result in reproof or suspension according to the gravity of the offense and/or harm, if any, to the victim. Second, in light of Teel’s prior discipline record, standard 1.7(a) directs that “the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust.” (*In re Silvertan, supra*, 36 Cal.4th at pp. 90-91 [exception to std. 1.7(a) is in the conjunctive].) Teel’s earlier discipline was neither remote nor minimal since it involved seven criminal convictions in five separate cases, the latest occurring in 2006. Standard 1.7(a) therefore applies.

We conclude that Teel’s probation should be revoked and he should receive an actual suspension. Although most of his violations were minor, he did not complete his mandatory random drug and alcohol testing, which is significant. Further, he failed to mitigate his misconduct by taking the test even after the deadline. (*In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 646, 652 [belated compliance with probation condition may be mitigating factor for discipline].) This random testing was designed to monitor substance abuse.

By failing to test, Teel has caused doubt about his continued sobriety and has shown a lack of “progress toward rehabilitation.” (*In the Matter of Potack, supra*, 1 Cal. State Bar Ct. Rptr. at p. 540.)

We have considered the total length of stayed suspension that could be imposed as an actual suspension (two years) and the total length of actual suspension imposed earlier as a condition of probation (none). (*In the Matter of Potack, supra*, 1 Cal. State Bar Ct. Rptr. at p. 540.) Teel’s failure to test is a serious probation violation, and is directly related to his underlying misconduct for DUIs. “[T]he greatest amount of discipline [is] merited for violations [of probation] which show a breach of a condition of probation significantly related to the misconduct for which probation was given” (*Ibid.*) Applying this principle, we conclude that the recommended 60-day actual suspension is appropriate and supported by comparable case law. (See *In the Matter of Parker* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 747 [90-day actual suspension imposed where attorney twice failed to submit satisfactory evidence of compliance with an approved substance abuse recovery program; violation breached condition directly related to attorney’s one prior record of discipline resulting from his DUI conviction]; *In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567 [30-day actual suspension where attorney’s only prior discipline record was misconduct underlying probation revocation proceeding and primary violation of failing to timely pay restitution was centrally related to prior discipline for trust account violations].)

Finally, we emphasize to Teel that failing to abide by probation terms and conditions is serious misconduct (*Potack v. State Bar* (1991) 54 Cal.3d 132, 139), even when the violation is technical. He could serve up to the entire two-year period of stayed suspension as an *actual* suspension for further probation violations.

IX. FORMAL RECOMMENDATION

We recommend that James Allen Teel's probation be revoked and the stay of suspension previously ordered in Supreme Court case number S175014 be lifted, that Teel again be suspended from the practice of law for two years, stayed, and that he be placed on probation for two years on the following conditions:

1. He must be suspended from the practice of law for the first 60 days of his probation.
2. He must comply with the provisions of the State Bar Act, the Rules of Professional Conduct of the State Bar of California, and all the conditions of this 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 of the State Bar and the State Bar's Office of Probation.
4. Within 30 days after the effective date of the Supreme Court order in this probation revocation proceeding, he must contact the State Bar's Office of Probation and schedule an in-person meeting with his assigned probation deputy to discuss these terms and conditions of probation. The meeting is to be held in the State Bar's Los Angeles office. He must then meet in person with the probation deputy at the scheduled time. Thereafter and throughout the period of probation, he must promptly meet with the probation deputy either in person or over the telephone 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 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.
6. Subject to asserting applicable privileges, he 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.
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.

8. He must abstain from the use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
9. He must attend at least four meetings per month of Alcoholics Anonymous. As a separate reporting requirement, he must provide to the Office of Probation satisfactory proof of attendance during each month, on or before the tenth day of the following month, during the probation period.
10. Upon the request of the Office of Probation, he must provide it with medical waivers and access to all of his medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Office of Probation are confidential and no information concerning them or their contents will be given to anyone except members of the Office of Probation, the Office of the Chief Trial Counsel, and the State Bar Court who are directly involved with maintaining, enforcing or adjudicating this condition.
11. He must be randomly tested for the use of alcohol no less than five and no more than ten times per year. He must select a licensed medical laboratory approved by the Office of Probation. Teel must maintain with the Office of Probation a current address and current telephone number at which he can be reached.

He must return any call from the Office of Probation concerning testing of his blood or urine within 12 hours. Within 36 hours of the Office of Probation's initial call to him, he must furnish to the approved medical laboratory blood and/or urine samples, as may be required to show that he has abstained from drugs and/or alcohol. Specifically, he is to submit to an EtG (Ethyl Glucuronide) test and a 10-panel drug test. Two samples will be taken for each test. The first of each sample is to be tested; the second specimen is to be stored in a manner that will ensure the specimen may be accurately tested in the future.

The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. He must cause the laboratory to provide to the Office of Probation, at his expense, a screening report containing an analysis of his blood and/or urine within 15 days after the sample was taken.

In the event a test result was positive and he believes this result to be a false or "innocent" positive, he will be given an additional five days to have the second specimen re-tested at the original laboratory or at another approved laboratory, and/or to meet with a Medical Review Officer employed or approved by the laboratory to discuss the results. If the laboratory determines that the initial positive test was indeed a false or "innocent" positive, that determination will be accepted by the Office of Probation.

12. His new two-year 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 the conditions of probation, the new two-year period of stayed suspension will be satisfied and that suspension will be terminated.

X. PROFESSIONAL RESPONSIBILITY EXAMINATION

We do not recommend that Teel be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners since he was previously ordered to do so in Supreme Court Case No. S175014.

XI. 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.

XII. DECLINE TO ORDER INACTIVE STATUS

The requirements of Business and Professions Code section 6007, subdivision (d)(1), have been met in that Teel was subject to a stayed suspension, he has violated probation conditions, and we recommend that he be actually suspended. However, as we are recommending only 60 days of suspension, if Teel is placed on involuntary inactive status now, it is likely that he will be precluded from practicing law for more than 60 days by the time the Supreme Court order imposing discipline becomes effective. We therefore do not order involuntary inactive status.

PURCELL, J.

We concur:

REMKE, P. J.

EPSTEIN, J.