

Filed October 22, 2020

**STATE BAR COURT OF CALIFORNIA**

**REVIEW DEPARTMENT**

In the Matter of	)	16-O-17493; 17-O-04404 (Consolidated)
	)	
RENEE LILLIE CAMPBELL,	)	OPINION
	)	
State Bar No. 104020.	)	
_____	)	

Renee Lillie Campbell is charged with eight counts of misconduct in two client matters. One matter concerned Campbell’s improper handling of her client trust account (CTA) as to her client, Arthur Major, and the other matter involved Campbell’s actions as an agent under a springing power of attorney for her client, Jeanette Moore. In the Major matter, the hearing judge found Campbell culpable of all four counts, including a moral turpitude violation for misappropriation of \$6,000. Of the four charged counts in the Moore matter, the judge only found Campbell culpable for breaching her fiduciary duties to Moore under the Probate Code. The judge recommended that Campbell be actually suspended for six months.

Both Campbell and the Office of Chief Trial Counsel of the State Bar (OCTC) appeal. Campbell asserts that the hearing judge erroneously found her culpable of misappropriation and failure to maintain client funds in the Major matter.<sup>1</sup> She does not challenge the judge’s finding of culpability as to one count in the Moore matter but seeks reduced discipline. OCTC seeks disbarment and argues that the hearing judge should have found Campbell culpable of moral turpitude violations in the Moore matter for misappropriation and breaching her fiduciary duties.

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<sup>1</sup> Campbell and OCTC argue certain factual challenges that are not outcome-determinative. Having independently reviewed all arguments set forth by the parties, those not specifically addressed have been considered and rejected as without merit.

Upon independent review of the record (Cal. Rules of Court, rule 9.12), we agree with Campbell that she is not culpable of misappropriation or failure to maintain client funds in the Major matter. We find culpability for two CTA violations in that matter. In the Moore matter, we affirm the hearing judge's finding that Campbell violated the Probate Code, but find additional culpability because Campbell's breach of her fiduciary duties amounts to moral turpitude. Though we find different culpability than the hearing judge found, given Campbell's serious misconduct, we affirm the discipline recommendation, including six months actual suspension.

### **I. PROCEDURAL BACKGROUND**

On July 9, 2018, OCTC filed a four-count Notice of Disciplinary Charges (NDC) in case number 16-O-17493, the Major matter, charging Campbell with (1) misappropriation, in violation of Business and Professions Code section 6106;<sup>2</sup> (2) failing to maintain client funds in her CTA, in violation of rule 4-100(A) of the Rules of Professional Conduct;<sup>3</sup> (3) failing to maintain records of client funds, in violation of rule 4-100(B)(3); and (4) failing to withdraw attorney funds timely, in violation of rule 4-100(A)(2). On October 16, 2018, OCTC filed a four-count NDC in case number 17-O-04404, the Moore matter, charging Campbell with (1) misappropriation and conversion of funds, in violation of section 6106; (2) conversion of jewelry, in violation of section 6106; (3) overreaching and breach of fiduciary duties, in violation of section 6106; and (4) failure to comply with laws, in violation of section 6068, subdivision (a). On March 15, 2019, the parties filed a Partial Stipulation as to Facts and Admission of Documents (Stipulation). Trial was held on March 25, 26, 28, 29, and April 22, 2019, and posttrial closing briefs followed. The hearing judge issued her decision on July 19, 2019.

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<sup>2</sup> All further references to sections are to this source. Section 6106 provides, in part, that the commission of any act involving dishonesty, moral turpitude, or corruption constitutes cause for suspension or disbarment.

<sup>3</sup> All further references to rules are to the former California Rules of Professional Conduct that were in effect until November 1, 2018, unless otherwise noted.

OCTC and Campbell then requested review. After briefing in this matter, OCTC notified the court that Moore had died on January 2, 2020. OCTC provided proof of her death to the court on July 28, 2020. On March 26, 2020 we abated this matter due to circumstances created by the COVID-19 pandemic. The abatement order was terminated on August 12, 2020, and oral argument was held on September 16, 2020.

## **II. THE MAJOR MATTER (16-O-17493)**

### **A. Factual Background<sup>4</sup>**

On February 22, 2009, Arthur Major was injured at work when an automobile crashed into a golf cart at the International Speedway in Ontario, California. He sustained injuries to his back, neck, knees, and wrist, and experienced post-traumatic head injuries, headaches, and psychological issues. On May 17, 2010, the Law Offices of Larry H. Parker (Parker) filed a lawsuit on behalf of Major in San Bernardino County Superior Court against International Speedway. On May 11, 2012, Major hired Campbell to further pursue the civil action for the injuries he suffered from the accident. Major signed a fee agreement with Campbell and agreed to pay a contingency fee of 40 percent of the gross recovery with costs paid separately. On June 18, 2012, Campbell substituted into the superior court case in place of Parker.

On July 26, 2013, Major agreed to a \$300,000 settlement with \$100,000 to be paid by Allstate and \$200,000 by Cincinnati Insurance. On August 5, Campbell deposited the \$100,000 Allstate check into her CTA. On August 23, she paid Major \$25,000 as a “partial settlement.” Campbell deposited the \$200,000 Cincinnati Insurance check into her CTA on August 26. She then issued a check to herself in the amount of \$12,000 as “partial fees in Major.”

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<sup>4</sup> The factual background for both client matters in this opinion is based on the Stipulation, trial testimony, documentary evidence, and factual findings by the hearing judge, which are entitled to great weight. (Rules Proc. of State Bar, rule 5.155(A).)

Parker asserted a claim of \$6,000 on any recovery for reimbursement of medical bills. On September 5, Campbell sent Major a disbursement sheet showing a breakdown of the \$300,000 settlement: (1) Campbell taking a reduced fee of \$114,000, or 38 percent of the \$300,000;<sup>5</sup> (2) costs of \$9,289.68; (3) \$6,000 withheld pending resolution of the dispute with Parker; and (4) \$145,710.32 owed to Major. Campbell issued a check from her CTA to Major for that amount. Major had already received \$25,000 as an advance payment. In total, Major received \$170,710.32, or 60 percent of the \$300,000 settlement less costs.

Between August 30 and October 8, Campbell issued six checks from her CTA, five of which were payable to herself or her law office. On October 8, Campbell removed the last of her fees when she issued a \$10,000 check to herself. In total, she withdrew \$120,000, or 40 percent. Major was paid the \$145,710.32 from Campbell's CTA on October 11, which left a balance of \$3,736.67. Campbell stipulated that she did not immediately withdraw her fees at the time they became fixed. On December 5, 2013, her CTA balance fell to \$3,301.67, and by February 26, 2014, it dropped to \$15.02.

## **B. Culpability**

### **1. Count One: Misappropriation (§ 6106)**

#### **Count Two: Failure to Maintain Client Funds in CTA (Rule 4-100(A))**

In count one, the NDC alleges that Campbell was required to hold \$6,000 in her CTA to pay Major or Major's former attorney pending resolution of a dispute over that amount, and that Campbell misappropriated \$5,984.98 between October 11, 2013, and February 26, 2014, when the account fell to \$15.02. Count two charges that Campbell failed to maintain \$6,000 in her CTA on behalf of Major. The hearing judge found Campbell culpable under both counts. We disagree.

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<sup>5</sup> A 40 percent fee, as the fee agreement provided, would have been \$120,000, \$6,000 more than listed on the disbursement sheet.

Major received \$170,710.32 from the settlement. This sum did not include a deduction of \$6,000 for the Parker lien even though the fee agreement provided that any outstanding costs or medical liens would be deducted from Major's portion of the settlement. Though the disbursement sheet showed Campbell taking 38 percent in attorney fees, she was legally entitled to take 40 percent under the fee agreement, or \$120,000. The fee agreement included a provision that modification of the agreement could only be made in a writing signed by both Campbell and Major. The disbursement sheet, which stated Campbell was taking a \$6,000 reduction in fees, could not modify the fee agreement as it was never agreed to by both and was never memorialized in the required writing.<sup>6</sup> Accordingly, we reject OCTC's argument that Campbell unilaterally reduced her fees by \$6,000 in the disbursement sheet. The evidence is not clear and convincing<sup>7</sup> that she was required to keep \$6,000 in her CTA as she had taken her appropriate fee under the fee agreement. Therefore, we do not find Campbell culpable of misappropriation or failure to maintain client funds, as charged in counts one and two.

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<sup>6</sup> OCTC argues that the disbursement sheet is a valid modification to the fee agreement because it "would induce the client's reliance upon her representations of a fee reduction." There is no evidence here that Major relied upon the fee reduction in the disbursement sheet or that the disbursement sheet was an inducement for Major to act in some way. Further, there is no evidence of mutual assent, of consideration for a modification, or that both parties intended the modification. (See 1 Witkin, Summary of Cal. Law (11th ed. 2020) Contracts, §§ 995, 999-1000; *Biren v. Equality Med. Grp., Inc.* (2002) 102 Cal.App.4th 125, 141 [a requirement of a written amendment to an agreement may be waived when the evidence shows that it was the intent of the parties]; *Chan v. Lund* (2010) 188 Cal.App.4th 1159, 1177-1178 [attorney sought to induce client to settle by agreeing to discount fee].) Therefore, we reject OCTC's argument.

<sup>7</sup> See *Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552 [clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind].

## **2. Count Three: Failure to Maintain Records of Client Funds (Rule 4-100(B)(3))**

Count three of the NDC alleges that Campbell failed to maintain proper accounting records for the \$300,000 she received on behalf of Major, in violation of rule 4-100(B)(3).<sup>8</sup> The NDC charges that Campbell did not keep a client ledger for Major or a written account journal for her CTA, and did not do monthly reconciliations of her CTA beginning on August 5, 2013, or properly account to Major. The hearing judge found Campbell was culpable under count three because she admitted at trial that she did not have a client ledger for Major and she failed to produce any records pertaining to Major after the records were specifically requested. We agree.<sup>9</sup>

## **3. Count Four: Failure to Withdraw Attorney Funds Timely (Rule 4-100(A)(2))**

The NDC charges that Campbell violated rule 4-100(A)(2)<sup>10</sup> when she failed to withdraw her fees at the earliest reasonable time when they became fixed on August 26, 2013, and she did not withdraw all her fees until October 8, 2013. The hearing judge found Campbell violated rule 4-100(A)(2) because she admitted that she did not withdraw her fees at the earliest reasonable time after they became fixed. The judge also found that the bank records showed that Campbell withdrew her fees piecemeal. We agree.<sup>11</sup>

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<sup>8</sup> Rule 4-100(B)(3) provides that an attorney must maintain complete records of all client funds coming into the attorney's possession and must render appropriate accounts to the client for these funds. The State Bar's Handbook on Client Trust Accounting also describes the requirements of CTA recordkeeping. (The State Bar of Cal., Handbook on Client Trust Accounting for California Attorneys (2018), § VII.) The Handbook is available online at: <https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/CTA-Handbook.pdf>.

<sup>9</sup> On review, Campbell does not challenge this finding.

<sup>10</sup> Rule 4-100(A)(2) provides that when funds that partially belong to a client and partially to an attorney are deposited in a CTA, the attorney must withdraw her portion at "the earliest reasonable time" after the attorney's interest in her portion becomes fixed.

<sup>11</sup> On review, Campbell does not challenge this finding.

### **III. THE MOORE MATTER (17-O-04404)**

#### **A. Factual Background**

##### **1. Campbell and Moore meet**

At the time of trial, Jeanette Moore was a retired school teacher in her nineties. Campbell met Moore at a University of California, Los Angeles (UCLA) advisory board meeting around 2005 or 2006, and they became friends. They grew close enough that Moore would refer to Campbell as her niece. They also served on the board for the Ralph Bunche Center for African American Studies at UCLA.

##### **2. Moore names Campbell as her agent under SPOA**

In 2007, Moore hired an attorney, James P. Drummy, to amend her will and trust. Moore listed Campbell as a secondary trustee and executed a springing durable power of attorney (SPOA), naming Campbell as her agent. The SPOA provided that the power of attorney would become effective if Moore became incapacitated. Moore would be presumed to lack capacity if her treating physician executed a “written declaration under penalty of perjury that in his or her opinion [Moore] does not have sufficient understanding or ability to make or communicate decisions about [her] property, financial, or business affairs.” The SPOA also provided that Moore had the right to revoke or terminate it at any time.

As to compensation, the SPOA provided that the agent was “entitled to fair and reasonable compensation for services rendered as agent under this instrument.” To determine what constitutes “fair and reasonable” compensation, the following factors may be considered under the SPOA: “(1) the time spent by the agent in administering the principal’s affairs, (2) the principal’s net worth, (3) the nature of the assets subject to the agent’s control, and (4) the fees charged by professional fiduciaries acting in the same or similar capacities under similar circumstances.” The SPOA authorized the agent to “do all things and enter into all transactions

necessary to provide for the principal's personal care and to maintain the principal's customary standard of living . . . and to hire and compensate household, nursing, and other employees as the agent considers advisable for the principal's well being [*sic*]."

### **3. SPOA becomes effective**

After Moore was hospitalized in August 2014, Campbell believed that Moore could not handle her own affairs or take care of herself financially. Campbell reviewed the SPOA and determined that she would need a letter from one of Moore's treating physicians to make the power of attorney effective. Campbell contacted Dr. Susan Wang, one of Moore's treating physicians, who provided a letter on August 26, 2014, consistent with the language required by the SPOA. Campbell presented the letter and the SPOA at Chase Bank, and, on August 29, added herself as a signatory to Moore's Chase Bank savings account.<sup>12</sup> Campbell then obtained a similar letter in September from another one of Moore's treating physicians, Dr. Timothy Hsieh. Campbell also sent Dr. Hsieh's letter to Chase Bank. Moore testified that when the physicians' letters were written, she was unaware of their existence.

Between September 3, 2014, and March 30, 2017, Campbell stipulated that she withdrew \$311,452.52 from Moore's savings account at Chase Bank. Moore also had other accounts, including a Bank of America checking account that she used to pay her bills. Campbell was not a signatory on the checking account, but reviewed the bank statements to ensure that there was money in it. Moore's annuities were paid once a year into the checking account, but Campbell was not aware of the details of the annuities. Moore asked Campbell to deposit checks into the account, which she did.

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<sup>12</sup> Moore's Social Security benefits and teacher's retirement pension were deposited into this account. Before Campbell started making withdrawals in September 2014, Moore had not touched the funds in this account. When Campbell took over the account, the balance was approximately \$269,000, and, in March 2017, after Campbell stopped withdrawing funds, the account balance was just above \$63,000. During this time, money continued to be deposited from Social Security and Moore's pension.



#### **4. Campbell's actions under the SPOA**

While Campbell was serving as agent under the SPOA, she visited Moore and helped her with various tasks. During this time, Moore was living in an assisted living facility where she had 24-hour in-home caregivers to assist her with daily activities. Campbell created detailed invoices of her time spent doing these tasks and charged Moore around \$365 per hour.<sup>13</sup> However, during her time as agent, Campbell never provided invoices to Moore and never explicitly told Moore the hourly rate she was charging.<sup>14</sup>

Campbell helped Moore pay bills by writing out checks that Moore would sign. While she was acting as Moore's agent, Campbell never became familiar with Moore's various bank accounts and did not have access to all of them. She only accessed Moore's savings account. Campbell also aided in scheduling Moore's caregivers and accompanied her at doctors' visits. Despite her presence at doctors' visits, Campbell never evaluated whether Moore had regained the ability to take care of her own affairs nor did she ask Campbell's doctors to make such a determination.

Campbell also took Moore on shopping trips, talked on the phone with her, and spent time socializing with her.<sup>15</sup> Campbell charged the same hourly rate for all of these activities and

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<sup>13</sup> Campbell initially billed \$380 per hour, but reduced her rate to match what she billed when she had previously represented Moore in an action with Moore's landlord.

<sup>14</sup> Campbell testified that she believed Moore was aware of how much she was charging because she thought Moore was looking at the savings account bank statements. However, there is not clear and convincing evidence that Moore reviewed the savings account records; she used it only to save her teacher's pension and Social Security funds. The hearing judge found that Moore credibly testified that if she had known how much Campbell was charging, she would have stopped Campbell right away. Campbell testified that she did not give Moore the invoices because Moore was "not very happy about paying bills" and she "didn't want to agitate her."

<sup>15</sup> The hearing judge found that while these tasks needed to be performed under the SPOA, some were delegable. The judge also determined that because Campbell practiced in the areas of probate law and conservatorship law, she understood the duties of an agent acting under the SPOA, such as ensuring Moore was cared for, maintaining Moore's standard of living, and looking out for Moore's best interests.

detailed them in the invoices. For instance, Campbell charged \$1,764.17 to take Moore on a single shopping trip to the mall; \$699.58 to take Moore's watch to be repaired and buy prune juice for her; and \$1,088.92 to eat Mother's Day lunch with her. On numerous other occasions, Campbell billed her hourly rate to have meals with Moore. Campbell also billed \$334.58 to get a list of supplies Moore needed from the store, and billed \$1,064.58 for delivering the supplies to Moore. She also billed Moore for talking on the phone about Campbell's son. Campbell explained that she charged Moore in this way because Moore was asking for her time and she was billing for her time as an attorney. Campbell testified that Moore often requested she visit Moore to personally take care of various situations, including health emergencies and issues with caregivers. If there was a call to handle something for Moore, Campbell would leave work or other functions to attend to Moore's needs.

#### **5. Moore discovers withdrawals**

In April 2017, Moore met with Vicente Vasquez, the branch manager of the Chase Bank in Rancho Park. Moore went to the bank believing she had over \$250,000 in the account and was confused as to why the balance was so low at \$63,000. Moore told Vasquez that she did not know that Campbell had been making the withdrawals and had not authorized her to do so. Vasquez believed Moore and made a report of possible elder financial abuse, which was referred to the Culver City Police Department. Moore then removed Campbell from the signature card and revoked her access to the savings account. After Campbell spoke to a Culver City police detective and provided him with copies of the invoices for Moore, the criminal investigation was closed in May. On June 10, Moore submitted her complaint to the State Bar. In December, a

doctor evaluated Moore and determined that she was cognitively intact and retained all forms of decisional capacity.<sup>16</sup>

## **B. Culpability**

The NDC charged Campbell with four counts of misconduct in the Moore matter. The hearing judge found Campbell culpable only under count four for failing to comply with laws under section 6068, subdivision (a). As to count four, the judge found that Campbell failed both to notify Moore that she was removing funds from the savings account and to account to Moore. The hearing judge dismissed the remaining counts. We affirm the dismissal of counts one (misappropriation) and two (conversion of jewelry)<sup>17</sup> and we find culpability under counts three (moral turpitude for breach of fiduciary duties) and four (failure to comply with laws).

### **1. Count One: Misappropriation and Conversion of Funds (§ 6106)**

Count one alleges that between September 3, 2014, and March 30, 2017, Campbell withdrew \$311,452.52 out of Moore's savings account without Moore's knowledge, authorization, or consent, and, therefore, misappropriated \$311,452.52. The hearing judge found that Campbell had an honest, but unreasonable, belief that she was entitled to the money as fees under the SPOA. Therefore, she found that Campbell did not act with moral turpitude. (See *In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 589 [attorney's honest and unreasonable belief that he has right to entrusted funds may be defense to misappropriation involving moral turpitude].) The judge dismissed count one with prejudice. We agree.

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<sup>16</sup> Due to this evaluation, it is clear that Moore regained the ability to take care of her own affairs at some point. However, there is no clear evidence in the record as to exactly when this occurred.

<sup>17</sup> Count two charged that Campbell converted items of jewelry from Moore, in violation of section 6106. The hearing judge found that there was not clear and convincing evidence that Campbell converted the jewelry and she dismissed count two with prejudice. We agree. OCTC does not challenge the dismissal on review.

OCTC has the burden of proving culpability by clear and convincing evidence. (Rules Proc. of State Bar, rule 5.103.) On review, OCTC argues that Campbell is culpable of misappropriation because she failed to meet the “high standard of conduct” required when an attorney is operating under a power of attorney, even when there is no attorney-client relationship. (*Cutler v. State Bar* (1969) 71 Cal.2d 241, 251 [when attorney acting in fiduciary relationship, attorney owes utmost good faith and “high standard of conduct”]; see also *In the Matter of McCarthy* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364, 373 [attorney who breaches fiduciary duties that would justify discipline if there was attorney-client relationship may be properly disciplined for misconduct].)

OCTC argues that Campbell unilaterally and improperly determined her fees, and that she should not have charged attorney rates for non-legal work. Citing cases from other jurisdictions that hold that it is improper to charge attorney fees for non-legal services, OCTC contends that Campbell’s fee rate of \$365 per hour for the tasks she performed amounted to misappropriation. OCTC’s argument is misplaced here; we find that it relates to the charges in count three for breach of fiduciary duty and the theory that Campbell’s fee was excessive. The argument also does not address the claim that Campbell honestly believed she was entitled to compensation under the SPOA for the work that she did.

Both the SPOA and Probate Code section 4204 provide for fair and reasonable compensation for services rendered by the agent under a power of attorney.<sup>18</sup> Campbell had broad powers as the agent under the SPOA, including the authority to use Moore’s assets to provide for her care, which Campbell did. OCTC failed to offer evidence to explain which portion of the bills represented legitimate services versus the amount OCTC alleges Campbell withdrew without

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<sup>18</sup> Probate Code section 4204 provides, “An attorney-in-fact is entitled to reasonable compensation for services rendered to the principal as attorney-in-fact and to reimbursement for reasonable expenses incurred as a result of acting as attorney-in-fact.”

authority and in violation of the SPOA or Probate Code section 4204. In addition, Campbell credibly testified to an honest belief that she was entitled to this fee amount. We therefore agree with the hearing judge that there is insufficient clear and convincing evidence that Campbell misappropriated \$311,452.52 in the Moore matter. Under these circumstances, we are unable to find that Campbell violated section 6106 as charged in count one and affirm the dismissal with prejudice. (*In the Matter of Kroff* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838, 843.)

## **2. Count Three: Overreaching and Breach of Fiduciary Duties (§ 6106)**

Count three alleges that between September 2014 and March 2017, Campbell breached certain fiduciary duties owed to Moore while serving as agent under the SPOA. The NDC specifically alleged that Campbell: (A) breached her duty of loyalty to act in Moore's best interests, to avoid defrauding Moore, and to avoid conflicts of interest under the SPOA as required under Probate Code section 4232; (B) breached her duty not to use Moore's property for her own personal benefit as required by Probate Code section 4232; (C) breached her duty to act with reasonable and prudent care, skill, and diligence on behalf of Moore as required by Probate Code section 4231; (D) breached her duty to keep her property separate from Moore's as required by Probate Code section 4233; (E) breached her duty to communicate with and to keep Moore reasonably informed as required by Probate Code section 4234; (F) breached her duty to account to Moore as required by Probate Code section 4236; and (G) used the SPOA to engage in financial elder abuse in violation of Welfare and Institutions Code section 15610.30, subdivision (a)(1). The hearing judge found that the allegations in (A), (B), (C), (D), and (G) were duplicative of the misappropriation charges in counts one and two, and dismissed them with prejudice. We disagree that this charged misconduct is duplicative, and, therefore, decline to dismiss these allegations, as fully described below. Regarding the allegations in (E) and (F), the judge determined that Campbell's actions did not rise to the level of moral turpitude.

Therefore, she found that Campbell was not culpable under count three. We disagree and find Campbell breached her fiduciary duties owed to Moore, which amounted to gross negligence and a violation of section 6106.

**a. Campbell did not meet the standard of care under the SPOA and failed to act in Moore’s best interests**

Under a power of attorney, the attorney-in-fact is required to “observe the standard of care that would be observed by a prudent person dealing with property of another.” (Prob. Code § 4231.) The attorney-in-fact also has a duty “to act solely in the interest of the principal and to avoid conflicts of interest.” (Prob. Code § 4232, subd. (a).)<sup>19</sup> As a fiduciary, the acts of an agent to a principal under a power of attorney “are judged with almost the same strictness as those of a trustee.” (*In re Arbuckle’s Estate* (1950) 98 Cal.App.2d 562, 569.) As we previously noted, attorney-fiduciaries, acting outside of attorney-client arrangements, are held to a high standard of conduct and must conform to professional standards. (*Cutler v. State Bar, supra*, 71 Cal.2d at pp. 251-252; *Crawford v. State Bar* (1960) 54 Cal.2d 659, 668.) An attorney who breaches fiduciary duties that would justify discipline if there was an attorney-client relationship may be disciplined for such misconduct. (See, e.g., *In the Matter of McCarthy, supra*, 4 Cal. State Bar Ct. Rptr. at p. 373.) Further, dealings between an attorney and her client that are beneficial to the attorney “will be closely scrutinized with the utmost strictness for any unfairness.” (*Clancy v. State Bar* (1969) 71 Cal.2d 140, 146–147.)

Campbell charged an attorney-level rate—\$365 per hour—for tasks such as taking Moore shopping; running errands for her; talking about personal, family matters on the phone; and dining with her. This resulted in Moore’s savings account funds being quickly depleted without her knowledge. As a fiduciary, it was improper for Campbell to charge her attorney rate for

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<sup>19</sup> Subdivision (b) of Probate Code section 4232 states that an attorney is not in violation of subdivision (a) solely because the attorney-in-fact also benefits from acting for the principal.

performing these simple tasks. (See *Bushman v. State Bar* (1974) 11 Cal.3d 558, 563 [overreaching for exorbitant fees so disproportionate to services performed as to shock conscience].)<sup>20</sup> It was not prudent for Campbell to spend Moore's money at such a rapid pace when she could have simply hired someone else to perform some of these tasks to protect Moore's savings. Campbell benefited greatly by charging Moore as she did and cannot show that her actions were fair to Moore. (See, e.g., *Estate of Moore* (2015) 240 Cal.App.4th 1101, 1106 [burden on trustee to show she subjectively believed fees were necessary or appropriate to carry out trust's purposes, and belief was objectively reasonable].) Though Campbell acted with the authority under the SPOA<sup>21</sup> and did only the services that were asked of her, she was grossly negligent in charging Moore in the way that she did, especially because Campbell never notified Moore that the SPOA was in effect nor the hourly rate Campbell was charging. Moore had no idea that her savings account funds had been drastically reduced. Further, Campbell's failure to reevaluate Moore's ability to take care of her affairs, or ask a doctor to do such an evaluation, shows Campbell's gross negligence in failing to act in the interest of her principal. We find that Campbell overreached and did not act in Moore's best interests in violation of her fiduciary duties, which constitutes misconduct involving moral turpitude. (*In the Matter of Kittrell*

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<sup>20</sup> At trial, Campbell's expert witness, Bruce Schwartz, testified that it was appropriate for Campbell to charge her attorney rate for all the services she completed for Moore under the SPOA. The hearing judge rejected Schwartz's testimony, finding that an agent with fiduciary duties under a power of attorney would not charge professional rates to perform non-professional work, such as running errands. We agree with the judge's rejection of this testimony since Schwartz's opinion was based on his belief that Moore knew what Campbell was charging and was aware that the SPOA was in effect. Schwartz testified that because there was notification to Moore, none of the Probate Code charges in count three were applicable. We find that Campbell did not notify Moore that the SPOA was in effect or that she was charging her \$365 an hour for her services. Accordingly, we cannot accept Schwartz's testimony that all of Campbell's fees were reasonable.

<sup>21</sup> The record is clear that Campbell obtained the proper documentation under the SPOA to act as the attorney-in-fact.

(Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195, 208 [breach of fiduciary duty involves moral turpitude].) Accordingly, Campbell is culpable under count three.

**b. Campbell failed to communicate and to account to Moore**

Campbell's failure to act in Moore's best interests is also demonstrated by her failure to inform Moore of her rate and the amounts she was withdrawing from Moore's savings account, as well as her failure to account for her work. Probate Code section 4234 requires an attorney-in-fact to regularly communicate with the principal. Campbell violated Probate Code section 4234 by failing to notify Moore that she was taking money from Moore's savings account.<sup>22</sup> Campbell never informed Moore that Dr. Wang's letter triggered the SPOA into effect in August 2014. Campbell began withdrawing funds from Moore's savings account in September 2014 and did not tell Moore that she was charging \$365 per hour for all of her interactions with Moore. Campbell cannot have it both ways: Campbell could not merely assume that Moore knew about the removal of the funds because Moore received the bank statements, especially considering Campbell's testimony that she needed to manage the savings account due to Moore's inability to handle her own affairs and the physicians' letters confirming this. Her testimony is further contradicted by her statement that she did not provide Moore with any invoices because she felt that they would only agitate Moore.

Campbell also failed to account to Moore. Probate Code section 4236 requires an attorney-in-fact to make an account of transactions entered into on behalf of the principal only when requested by the principal or under other certain circumstances not present here. However, an "attorney who accepts the responsibility of a fiduciary nature is held to the high standards of the legal profession whether or not [she] acts in [her] capacity of an attorney." (*Worth v. State*

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<sup>22</sup> Schwartz testified that Campbell had a duty to communicate to Moore that the SPOA was in effect. We find this expert opinion credible. However, we disagree with Schwartz in that he believed that Campbell had communicated this information to Moore.



*Bar* (1976) 17 Cal.3d 337, 341.) As such, an agent-in-fact under a power of attorney is required to account to the principal. (*Ibid.*; see also *Crawford v. State Bar*, *supra*, 54 Cal.2d at p. 668.)

Campbell breached her fiduciary duties when she failed to account to Moore.

Campbell's failure to communicate and failure to account are further instances of her failure to uphold her fiduciary duties to Moore and, therefore, constitute gross negligence in violation of section 6106.

**c. OCTC failed to establish that Campbell violated Prob. Code § 4233**

Probate Code section 4233 provides that an attorney-in-fact must "keep the principal's property separate and distinct from other property in a manner adequate to identify the property clearly as belonging to the principal." OCTC failed to present clear and convincing evidence that Campbell failed to maintain Moore's property separate from her own.

**d. OCTC failed to establish financial elder abuse**

Welfare and Institutions Code section 15610.30, subdivision (a)(1) defines financial elder abuse as taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder for a wrongful use or with intent to defraud, or both. Subdivision (b) provides that "wrongful use" occurs when the person taking from the elder "knew or should have known that [her] conduct is likely to be harmful to the elder." (See, e.g., *Wood v. Jamison* (2008) 167 Cal.App.4th 156, 164–165 [attorney engaged in financial elder abuse by aiding and abetting in scheme using elder's money to secure \$250,000 loan and improperly accepted fees to which elder was entitled].) The hearing judge found that Campbell did not intend to defraud Moore and that Campbell did not remove the savings account funds for a wrongful use, as she performed substantial work for Moore.

OCTC argues that Campbell violated Welfare and Institutions Code section 15610.30, subdivision (a)(1) by taking Moore's savings account funds without providing invoices and

converting the funds for Campbell's own use. OCTC contends that the hearing judge did not consider that Campbell's fees were improper and unreasonable and that she concealed her action. We find that OCTC has failed to establish by clear and convincing evidence that Campbell committed financial elder abuse under the Welfare and Institutions Code. As we noted under count one, the SPOA gave Campbell broad powers as agent and Campbell did arrange for Moore's care. OCTC did not prove she removed the funds for a wrongful use or with an intent to defraud. We affirm the hearing judge's dismissal of the allegations that Campbell violated the Welfare and Institutions Code.

**3. Count Four: Failure to Comply with Laws (§ 6068, subd. (a))**

Count four recited the same allegations found in (A) through (G) of count three, but charged Campbell with violating section 6068, subdivision (a). That section provides that it is the duty of an attorney to support the Constitution and laws of the United States and of this state. The hearing judge determined that Campbell performed substantial work for Moore under the SPOA and that Campbell did not withdraw funds for her own personal benefit when it was not in Moore's best interest. We disagree, as discussed above. We agree with the judge's finding that Campbell violated the Probate Code when she did not disclose to Moore that she was removing funds and when she did not provide an accounting to Moore of the funds she withdrew. The judge found that this did not rise to the level of moral turpitude, but, as discussed above, we find that it did. The judge also found that there was not clear and convincing evidence that Campbell violated the Welfare and Institutions Code and we agree. Campbell's violations of the Probate Code therefore establish culpability under count four for violating section 6068, subdivision (a). While the misconduct underlying Campbell's violation under count four is the same as under count three, we do not dismiss count four. We find both violations, but do not assign additional weight under count four for discipline purposes. (See *In the Matter of Moriarty* (Review Dept.

2017) 5 Cal. State Bar Ct. Rptr. 511, 520 [no dismissal of § 6068, subd. (d), charge where same misconduct proved culpability for violation of § 6106].)

#### **IV. AGGRAVATION AND MITIGATION**

Standard 1.5<sup>23</sup> requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Campbell to meet the same burden to prove mitigation.

##### **A. Aggravation**

###### **1. Multiple Acts of Wrongdoing (Std. 1.5(b))**

The hearing judge assigned moderate aggravation for Campbell’s multiple acts of misconduct including misappropriation and three trust account violations in the Major matter and violations of the Probate Code in the Moore matter. (*In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646–647 [three instances of misconduct considered multiple acts].) We find only two trust account violations in the Major matter. However, we find additional misconduct for numerous moral turpitude violations occurring for two and one-half years in the Moore matter and assign substantial aggravating weight.

###### **2. Significant Harm (Std. 1.5(j))**

The hearing judge assigned “some weight” in aggravation for the harm Moore suffered due to her “unexpected change in finances” due to Campbell’s failure to notify Moore that she was withdrawing funds from Moore’s savings account. Moore suffered significant harm because she was unaware that her savings account had been depleted. She had planned on making a donation to UCLA when she went to the bank in April 2017, but decided she was not able to do so due to the unforeseen amount that had been withdrawn from her savings account. Campbell knew of Moore’s interest in philanthropy and her past donations to UCLA and her wish to leave

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<sup>23</sup> Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct. All further references to standards are to this source.

money in her will to advance African Americans in their education. After Moore learned about the depletion, she was very worried that she could not afford her living expenses and would have to move in with a friend. Campbell caused Moore harm by removing the funds without notice to Moore, however, Campbell was entitled to use some portion of the money under the SPOA and did not misappropriate any funds. Therefore, we assign moderate weight in aggravation.

### **3. Indifference Toward Rectification or Atonement for the Consequences of the Misconduct (Std. 1.5(k))**

The hearing judge found Campbell's lack of insight, little remorse, and general indifference in the Moore matter to warrant significant consideration in aggravation. The judge determined that Campbell did not fully recognize that she was wrong in failing to notify Moore and provide accountings for the funds she was removing from Moore's savings account. The judge noted the discord between Campbell's assertion that Moore was reviewing her bank statements and Campbell's claim that she did not give any invoices to Moore because she did not want to agitate her. This misconduct, however, is duplicative of the misconduct already found in determining culpability. (*In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 132–133 [inappropriate to use same misconduct constituting violation to also establish aggravation]).<sup>24</sup> Further, Campbell admitted at trial that she regrets not giving Moore the invoices and not delegating certain tasks. She also stated she regrets taking the assignment because she lost her friendship with Moore. Therefore, we do not find aggravation under standard 1.5(k).

### **4. High Level of Victim Vulnerability (Std. 1.5(n))**

The hearing judge found that Moore was a vulnerable victim due to her age and "cloudy" thinking caused by her physical problems, which was attested to by two physicians' letters stating Moore was unable to handle her own affairs. Campbell made the SPOA effective based on those

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<sup>24</sup> The hearing judge also found that Campbell continually insisted her conduct was appropriate and, therefore, suggests that further misconduct may recur. The record does not support such a finding.

letters and knew of Moore's vulnerability. Moore was unaware that the SPOA had become effective and thus lacked the ability to challenge Campbell's actions under the SPOA. We affirm the judge's finding that Moore was a highly vulnerable victim.

**5. Failure to Make Restitution (Std. 1.5(m))**

On review, OCTC argues that Campbell should receive additional aggravation for failing to make restitution to Major and Moore. The hearing judge recommended that Campbell make restitution to Major in the amount of \$6,000, but did not include it as an aggravating circumstance. There is not clear and convincing evidence in the record that Major was owed any money. OCTC also did not prove that Campbell misappropriated any of Moore's money or specify which portion of her charges were improper and deserved to be paid back to Moore. Accordingly, we do not assign aggravation under standard 1.5(m) because OCTC has not carried its burden of proving this aggravating circumstance by clear and convincing evidence.

**B. Mitigation**

**1. No Prior Record of Discipline (Std. 1.6(a))**

The hearing judge assigned significant mitigation for Campbell's lack of a prior record of discipline in over 30 years of practice. Absence of a prior record of discipline over many years, coupled with present misconduct that is not likely to recur, is a mitigating circumstance. (*Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029 [discipline-free record most relevant where misconduct is aberrational and unlikely to recur].) OCTC argues that Campbell is entitled to less mitigation because of her indifference. We disagree, as we do not find aggravation for indifference or that her misconduct is likely to recur. Therefore, we assign substantial mitigation under standard 1.6(a). (*Hawes v. State Bar* (1990) 51 Cal.3d 587, 596 [substantial mitigation where attorney practiced over 10 years before first act of misconduct and misconduct not likely to recur].)

## **2. Candor and Cooperation with State Bar (Std. 1.6(e))**

The hearing judge assigned modest mitigation for Campbell's Stipulation because it "was extremely limited considering the complexity of this matter and the voluminous amounts of evidence presented at trial." We disagree and find that the Stipulation provided extensive facts and preserved court time and resources. Though she did not admit to culpability at trial, Campbell does not challenge culpability for counts three and four in the Major matter on review. And we do not find her culpable of counts one and two in that matter. Additionally, Campbell did not challenge on review the hearing judge's sole culpability finding in the Moore matter. Therefore, we assign moderate weight in mitigation. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more extensive mitigation weight for admission of culpability and facts].)

## **3. Extraordinary Good Character (Std. 1.6(f))**

Campbell may obtain mitigation for "extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct." (Std. 1.6(f).) Six witnesses, including four attorneys and one judge, testified at trial regarding Campbell's good character. (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [serious consideration given to attorneys' testimony due to their "strong interest in maintaining the honest administration of justice"].) Four of the witnesses, including the judge, have known Campbell for over 25 years. All of the witnesses were aware of the full extent of the misconduct and attested that the NDC charges did not change their high opinion of Campbell. All stated that Campbell is known for her honesty, integrity, and hard work. Several testified that she is known for community involvement, including serving on her church's board of trustees for several years. Accordingly, we assign substantial mitigating credit under standard 1.6(f). (*In the Matter of Davis, supra*, 4 Cal. State Bar Ct. Rptr. at pp. 591–592

[significant mitigation for testimony on issue of good character where witness observed attorney's "daily conduct and mode of living"].)<sup>25</sup>

#### **4. Community Service**

Community service is a mitigating circumstance. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785.) The hearing judge found that Campbell has engaged in significant community service over her years of practice and assigned substantial weight in mitigation. We agree. Campbell is a past president of UCLA Law Alumni; a past president and current member of the California Association of Black Lawyers; a member of the National Bar Association; a past vice president of Black Women Lawyers, Inc.; and a past president of the Black Women Lawyers Foundation. Campbell has also been a member of the Langston Bar Association, the Women Lawyers Association, and California Women Lawyers. She served on the ethics committee of the Los Angeles County Bar Association, the Los Angeles County Regional Planning Commission, and the Board of the Ralph Bunche Center for African American Studies. She has also been a lecturer at Loyola Law School. Campbell's significant community service involvement is impressive and demonstrates her commitment to the legal profession and her community. (Cf. *Rose v. State Bar* (1989) 49 Cal.3d 646, 667 [mitigation for legal abilities, dedication, and zeal in pro bono work].)

#### **V. DISCIPLINE**

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.) Our disciplinary analysis begins with the standards. While they are guidelines for discipline and are not mandatory, we give them

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<sup>25</sup> We reject OCTC's argument on review that Campbell is entitled to less mitigation for her good character evidence due to the fact that only one witness was from the "general community." Her character witnesses were from both the legal and general communities and represent a sufficient range.

great weight to promote consistency. (*In re Silvertown* (2005) 36 Cal.4th 81, 91–92.) The Supreme Court has instructed us to follow the standards “whenever possible.” (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) We also look to comparable case law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310–1311.)

In analyzing the applicable standards, we first determine which standard specifies the most severe sanction for the at-issue misconduct. (Std. 1.7(a) [most severe sanction shall be imposed where multiple sanctions apply].) Here, standard 2.11 is the most severe, providing for disbarment or actual suspension for an act of moral turpitude.<sup>26</sup> The hearing judge applied standard 2.11 and discussed case law involving grossly negligent misappropriation under her culpability finding in the Major matter. The judge recommended a six-month actual suspension. We do not find grossly negligent misappropriation here. We do find that Campbell’s actions amounted to moral turpitude in the Moore matter for her breach of fiduciary duties. OCTC argues for disbarment under standard 2.1(a), arguing Campbell misappropriated \$311,452.52 from Moore. We decline to apply standard 2.1(a) as we do not find Campbell culpable of misappropriation. Campbell asserts that discipline should be reduced below six months because she did not misappropriate funds in the Major matter. While we agree with Campbell that she did not misappropriate funds, we find additional misconduct constituting moral turpitude in the Moore matter.

In looking at comparable case law, our focus is on precedent involving section 6106 moral turpitude violations for overreaching and breach of fiduciary duties. Campbell’s violation of section 6106 is the most serious charge in the present matter as it involved her failing to look after Moore’s best interests for two and one-half years.

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<sup>26</sup> Standard 2.2(b) provides for suspension or reproof for certain trust account violations under current rule 1.15 of the Rules of Professional Conduct, the equivalent to rule 4-100.



We find some guidance in *In the Matter of Johnson* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233, but note that Campbell’s case involves more mitigation and less aggravation. In *Johnson*, an attorney exploited a vulnerable relative whom she represented in a personal injury action by improperly loaning herself client settlement funds and failing to pay them back, which we found constituted gross overreaching amounting to moral turpitude. Johnson violated her duties to her client, but her actions did not establish misappropriation. (*Id.* at p. 243.) In *Johnson*, we quoted *Beery v. State Bar* (1987) 43 Cal.3d 802, 813: “The essence of a fiduciary or confidential relationship is that the parties do not deal on equal terms, because the person in whom trust and confidence is reposed and who accepts that trust and confidence is in a superior position to exert unique influence over the dependent party.” (*Id.* at p. 243–244.) We found that Johnson committed moral turpitude by exploiting her superior knowledge and position of trust to the detriment of her vulnerable client. Johnson received mitigation for her lack of prior discipline and aggravation for vulnerability of the victim, multiple acts of wrongdoing, significant harm, indifference, and lack of candor. Johnson received a five-year stayed suspension, a five-year term of probation including the condition that she pay approximately \$20,000 in restitution for the improper loan, and an actual suspension of two years, continuing until Johnson demonstrated her rehabilitation and fitness to practice. Campbell has more mitigation than Johnson, including strong character evidence, community service, and cooperation. We found additional aggravation in Johnson that we do not find here, including indifference, failure to repay, and lack of candor. (See *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 282 [lack of candor may be stronger and more egregious aggravating factor than underlying misconduct].) Therefore, an actual suspension of less than two years is appropriate.

We find additional guidance in the recent case of *In the Matter of Lingwood* (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660, which involved breach of fiduciary duties under the Probate Code. While acting as a trustee, Lingwood improperly made a loan from the trust to herself and violated her fiduciary duties to the beneficiaries when she did not provide notice to them that she was making the loan. We found that her actions did not amount to misappropriation or any other moral turpitude violation and recommended an actual suspension of 60 days. Here, Campbell's actions did constitute moral turpitude and went beyond a failure to give notice as Campbell failed to act in Moore's best interests and overreached in the way she charged Moore. Further, Campbell's misconduct was prolonged and more extensive than the single instance of an improper loan in *Lingwood*. Lingwood received mitigation credit similar to that we are assigning for Campbell. However, Lingwood had no aggravating circumstances, while Campbell has aggravation. Accordingly, a period of actual suspension longer than 60 days is warranted.

While we do not find that Campbell was culpable for misappropriating money from her clients, she committed other serious misconduct. Her moral turpitude violation in the Moore matter for breaching fiduciary duties is of the most concern. Campbell failed to act in Moore's best interests, as required under the SPOA. She overreached by charging Moore her attorney rate for performing simple tasks and with no concern about the depletion of Moore's savings. However, Campbell's lack of communication is at the core of her misconduct. Her loyalty to Moore might have never been called into question if she had told Moore that the SPOA was in effect and how much she was charging for her services. Because Campbell did not do so, she breached her fiduciary duties and committed gross negligence constituting moral turpitude. In addition, she committed two trust account violations in the Major matter. Weighing the totality of the factors and considering comparable case law, we conclude that Campbell should be

actually suspended for six months in order to protect the public, the courts, and the legal profession. A six-month actual suspension is a serious discipline that will convey to Campbell the gravity and consequences of her actions.

## **VI. RECOMMENDATION**

We recommend that Renee Lillie Campbell, State Bar No. 104020, 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 with the following conditions:

- 1. Actual Suspension.** Campbell must be suspended from the practice of law for the first six months of her probation.
- 2. Review Rules of Professional Conduct.** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Campbell must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126, and (2) provide a declaration, under penalty of perjury, attesting to her compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with her first quarterly report.
- 3. Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions.** Campbell must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of her probation.
- 4. Maintain Valid Official State Bar Record Address and Other Required Contact Information.** Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Campbell must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has her current office address, email address, and telephone number. If she does not maintain an office, she must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Campbell must report, in writing, any change in the above information to ARCR, within 10 days after such change, in the manner required by that office.
- 5. Meet and Cooperate with Office of Probation.** Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Campbell must schedule a meeting with her assigned probation case specialist to discuss the terms and conditions of her discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, she may meet with the probation case specialist in person or by telephone. During the probation period, Campbell must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

**6. State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court.** During Campbell's probation period, the State Bar Court retains jurisdiction over her to address issues concerning compliance with probation conditions. During this period, she must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to her official membership address, as provided above. Subject to the assertion of applicable privileges, Campbell must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.

**7. Quarterly and Final Reports**

**a. Deadlines for Reports.** Campbell must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Campbell must submit a final report no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.

**b. Contents of Reports.** Campbell must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether she has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

**c. Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

**d. Proof of Compliance.** Campbell is directed to maintain proof of her compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of his actual suspension has ended, whichever is longer. She is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

**8. State Bar Ethics School.** Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Campbell must submit to the Office of Probation satisfactory evidence of completion of the State Bar 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 she will not receive MCLE credit for attending this session. If she provides satisfactory evidence of completion of the Ethics

School after the date of this opinion but before the effective date of the Supreme Court's order in this matter, Campbell will nonetheless receive credit for such evidence toward her duty to comply with this condition.

- 9. Commencement of Probation/Compliance with Probation Conditions.** 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 probation period, if Campbell has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

## **VII. MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION**

We further recommend that Renee Lillie Campbell be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners within one year of the effective date of the Supreme Court order in this matter and to provide satisfactory proof of such passage to the Office of Probation within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).) If she provides satisfactory evidence of taking and passage of the MPRE after the date of this opinion but before the effective date of the Supreme Court's order in this matter, she will nonetheless receive credit for such evidence toward her duty to comply with this condition.

## **VIII. CALIFORNIA RULES OF COURT, RULE 9.20**

We further recommend that Campbell be ordered to comply with the requirements of California Rules of Court, rule 9.20, 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 imposing discipline in this matter.<sup>27</sup> Failure to do so may result in disbarment or suspension.

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<sup>27</sup> For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Campbell is required to file a rule 9.20(c) affidavit even if she has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is cause for, inter alia, disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

## IX. COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment. Unless time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

## X. MONETARY SANCTIONS

The court does not recommend the imposition of monetary sanctions as all the misconduct in this matter occurred prior to April 1, 2020, the effective date of rule 5.137 of the Rules of Procedure of the State Bar, which implements Business and Professions Code section 6086.13. (See *In the Matter of Wu* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263, 267 [rules of statutory construction apply when interpreting Rules Proc. of State Bar]; *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1208–1209 [absent express retroactivity provision in statute or clear extrinsic sources of intended retroactive application, statute should not be retroactively applied]; *Myers v. Philip Morris Companies, Inc.* (2002) 28 Cal.4th 828, 841 [where retroactive application of statute is ambiguous, statute should be construed to apply prospectively]; *Fox v. Alexis* (1985) 38 Cal.3d 621, 630–631 [date of offense controls issue of retroactivity].)

HONN, J.

WE CONCUR:

PURCELL, P. J.

McGILL, J.