PUBLIC MATTER — NOT DESIGNATED FOR PUBLICATION

Filed March 13, 2015

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of DARRYL WAYNE GENIS, A Member of the State Bar, No. 93806.	)	Case Nos. 11-O-18966 (12-O-14873) OPINION

The hearing judge found that Darryl Wayne Genis, an effective but confrontational criminal defense attorney, violated court orders in two superior courts. However, the judge dismissed charges that Genis filed a false and malicious State Bar complaint and committed acts of moral turpitude. The judge recommended discipline, including a 90-day actual suspension, after finding significant aggravation (multiple acts, bad faith, indifference, and substantial harm) and mitigation (30-year discipline-free career and good character).

Both Genis and the Office of the Chief Trial Counsel of the State Bar (OCTC) appeal. Genis seeks a dismissal; in the alternative, he challenges the aggravation findings and requests no more than a private reproval. OCTC contends Genis is culpable on all counts and is not entitled to any mitigation credit. It renews its trial request for a one-year actual suspension.

We have independently reviewed the record under rule 9.12 of the California Rules of Court, and affirm the hearing judge's culpability, aggravation, and mitigation findings. Nevertheless, a 90-day suspension is not supported by case law, and fails to take into account the strength of the mitigating circumstances, particularly Genis's long discipline-free legal career. A

period of actual suspension is warranted, however, in light of the applicable standard[1] and the aggravating circumstances, including Genis's disrespectful attitude toward the superior court. We recommend a 30-day actual suspension and a two-year probation.

I. PROCEDURAL HISTORY

On October 22, 2013, OCTC filed a four-count First Amended Notice of Disciplinary Charges (NDC) alleging that Genis: (1) made a false and malicious State Bar complaint; (2) committed an act involving moral turpitude; (3) disobeyed court orders by failing to attend two trial readiness conferences; and (4) disobeyed an in limine order. The parties entered into a stipulation as to facts and admission of documents. At the three-day trial, OCTC offered the testimony of numerous witnesses, including the two superior court judges who sanctioned Genis for disobeying court orders. Genis testified in his defense. We find the record supports the hearing judge's culpability, aggravation, and mitigation findings,[2] which we affirm and summarize below.

II. DISCUSSION

A. Genis's Background

Genis has been a member of the State Bar since 1980 and has no prior record of discipline. He is considered by many to be an accomplished criminal defense attorney and limits his practice to defense of driving under the influence (DUI) matters. Both testifying superior court judges commented on his competence.[3]

---

[1] References to standards are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

[2] Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

[3] One judge stated: "Mr. Genis is a skilled lawyer. He's very competent. He's probably the best DUI lawyer . . . on the Central Coast."

B. Genis Disobeyed Court Orders in the *Whitus* Matter (Count Three)[4]

1. Facts

Genis represented the defendant in *People v. Whitus* (Super. Ct. San Luis Obispo County, No. MO447682A) (*Whitus*). During the pendency of the matter, the judge granted multiple continuances requested by Genis, including the trial date. On February 3, 2011, at a trial readiness conference attended by Genis, a third trial date of April 18, 2011 was selected, and another trial readiness conference set for April 7, 2011. On March 15, Genis made arrangements to attend a continuing legal education course in New Orleans from April 13 to April 17. He testified he did not anticipate his travel would interfere with his ability to appear in *Whitus*.

On April 6, while finishing a trial in another courtroom, Genis realized he would be unable to attend the April 7 trial readiness conference. He arranged for another attorney to appear, but the attorney was not adequately prepared. As a result, the judge continued the conference to April 14, and ordered Genis to personally appear. Genis was timely made aware of the order, but he went to New Orleans as planned and did not attend the trial readiness conference. Instead, he sent the same appearance counsel, who was again inadequately prepared. The judge continued the conference to the next day, April 15, and again ordered Genis to personally appear. Genis knew about the order, but did not appear. This time, however, he hired a different attorney, who was prepared and settled the case.

Following an order to show cause (OSC) hearing, the judge sanctioned Genis $750 for his failure to appear at the three April 2011 trial readiness conferences. Genis appealed, contending: (1) the sanctions were unwarranted as another attorney appeared on his behalf; (2) no valid court order required him to appear at the conference; and (3) the judge was prejudiced against him. The Appellate Division of the San Luis Obispo Superior Court affirmed

[4] We consider the NDC charges out of order to address first the two counts for which we find culpability.

the sanctions order in a published opinion. (*People v. Whitus* (2012) 209 Cal.App.4th Supp. 1.) The court found it was "readily apparent" that Genis was to appear in person at each readiness conference. (*Id*. at p. Supp. 10.) It also found that the directive was eminently reasonable given the trial's judge "vital responsibility" to expeditiously resolve criminal cases and the fact that Genis specifically and personally agreed to the April 7 date months in advance. (*Id.* at p. Supp. 8.)

As the sanction was less than $1,000, Genis was not required to self-report to the State Bar. The appellate division, however, elected to refer him due to his conduct on appeal. The court stated that Genis's oral argument consisted of "repeated tirades and impertinence, and with a tone wholly condescending and accusatory[.]" (*People v. Whitus*, *supra*, 209 Cal.App.4th at p. Supp. 4.) Voicing further concern, the court declared: "Appellant's conduct is a serious and significant departure from acceptable appellate practice, or for that matter, practice in any court of law. If left unaddressed, this sort of advocacy demeans the profession, lowers public respect, and conveys the impression that it is acceptable and effective." (*Ibid.*) Among many examples, the court pointed to Genis's description of it as " 'the fox [watching] the hen house,' " and his comment about judges talking "like women in a sewing circle about us lawyers." (*Id.* at p. Supp. 12.) Genis also described the trial court judge as an "embarrassment to our profession" who had a "completely sealed and closed shut mind." (*Id.* at pp. Supp. 12-13.) The court observed that Genis continued his behavior despite admonishment and that his tone throughout oral argument was "confrontational, accusatory and disdainful." (*Id.* at p. Supp. 13.) We consider this conduct before the appellate division in aggravation, even though it was not charged in the NDC.

2. Culpability

Count Three of the NDC charged, and the hearing judge found, that Genis willfully disobeyed a court order in violation of Business and Professions Code section 6103 by failing to appear at the April 14 and 15, 2011 trial readiness conferences.[5] We agree. (See *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63, 71-72, 77, fn. 9 [attorney's failure to appear at hearing as ordered by court violated § 6103; attorney obligated to "do everything in his power to obey the court's order"].)

Genis argues he is not culpable because the orders did not give him reasonable notice, he sent appearance counsel to the conferences, and he offered to appear telephonically on April 15. He also contends his failure to appear was not willful. We reject his arguments as meritless.

Genis knew he was ordered to personally attend the conferences and unilaterally decided not to appear. This decision was not his to make and constitutes willful misconduct. (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 787, quoting *King v. State Bar* (1990) 52 Cal.3d 307, 314 [to prove failure to obey court order, attorney must have known what he was doing or not doing and intended to commit act or abstain from committing it].) We also note the Supreme Court has instructed that violating a court order is serious misconduct: "Disobedience of a court order, whether as a legal representative or as a party, demonstrates a lapse of character and a disrespect for the legal system that directly relate to an attorney's fitness to practice law and serve as an officer of the court." (*In re Kelley* (1990)

[5] Under section 6103, an attorney's "willful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear . . . [constitutes cause] for disbarment or suspension." Unless noted, all further references to sections are to the Business and Professions Code.

52 Cal.3d 487, 495, citing *Maltaman v. State Bar* (1987) 43 Cal.3d 924, 951; see *Gary v. State Bar* (1988) 44 Cal.3d 820, 823-824 [failure to attend court-ordered hearings violated § 6103].)[6]

C. Genis Disobeyed a Court Order in the *Moreno* Matter (Count Four)

1. Facts

Genis represented the defendant in *People v. Moreno* (Super. Ct. Santa Barbara County, No. 1398576) (*Moreno*). Local press had called into question the integrity, honesty, and competence of two law enforcement officers involved in the case. The trial court judge testified: "it was known to the court and to the prosecution at the outset that there would be an effort to impeach both of those law enforcement witnesses with prior acts occurring in these two other investigations." The judge said he was aware of Genis's "perhaps legitimate concern[s] about the integrity and honesty" of the officers but that he, the judge, had not determined yet whether prior bad acts were admissible. The judge further testified that he wanted to resolve the question of admissibility outside the presence of the jury. For these reasons, he ordered Genis and the prosecutor "not to inquire, discuss, question, or raise in any form whatsoever any bad acts that may be used that are arguably or at least . . . in theory or under the evidence code could be used for impeachment purposes without prior approval from the court." Genis did not seek clarification of the order, and the judge testified he repeated the directive "ad nauseum."

During cross-examination of the first officer, Genis asked, without prior approval: "When you fill out your paperwork, the question I want to ask you is, have you ever within the last three years given sworn testimony either oral or written that was not both true and correct?" The judge admonished Genis, and repeated his in limine order then and again the following day. Thereafter, Genis asked the second officer: "Do you remember pulling over, investigating, and

[6] We acknowledge that Genis protected his client's interests and sent counsel to appear on his behalf — in particular, he hired counsel who settled the case. We consider these facts in determining the appropriate discipline.

arresting a local contractor by the name of []?"[7] The judge admonished Genis again, outside the presence of the jury.

The judge served Genis with an OSC. He rejected Genis's arguments that the order did not cover the questions he asked and deemed disingenuous Genis's claim that he did not understand the order. The judge found that Genis twice violated the order in the "face of a continuous stream of admonitions." Further, the violations were "purposeful, deliberate, and calculated," made in bad faith and to cause prejudice. The judge imposed $2,000 in sanctions, stating he did so reluctantly because of the consequences for Genis, who "is an extremely talented lawyer who does not need to resort to unethical behavior, to achieve positive outcomes." At the State Bar Court hearing, the judge reiterated his hesitation, but concluded sanctions were necessary for deterrence and "out of integrity for the orderly administration of justice, and for the system, and for proper decorum and for respect for judicial orders."

2. Culpability

Count Four of the NDC charged, and the hearing judge found, that Genis willfully disobeyed a court order by failing to obey the superior court's order regarding prior bad acts in the *Moreno* case. We agree.

Using arguments similar to those he made in responding to the OSC, Genis here contends the parameters of the in limine order were vague and failed to give notice. His argument is contradicted by the order's clarity and breadth. The trial court judge's testimony also shows all participants were well aware of the purpose and meaning of the order.[8] Moreover, Genis did not

[7] The contractor was not involved in the *Moreno* case.

[8] The judge testified: "[T]he order was something that was unambiguous. The order was simply that you're not to raise the issues about prior bad acts until we deal with it outside the presence of the jury. I could not have been more clear. I could not have spent any more time without belaboring the point. . . . It's, you know, not rocket science. Nobody had a difficult time appreciating the content of the order. It wasn't complicated. It's very routine, it's understood."

raise these complaints during the trial. His argument that he did not intend to violate nor did he violate the order goes against the evidence. Genis was repeatedly warned about his tactics and could have presented his questions to the judge for approval outside the presence of the jury without running the risk of violating the court's order.

D. Genis Did Not Submit a False and Malicious State Bar Report or Commit Moral Turpitude

1. Count One

Genis represented the defendant in *People v. Marking-Epps* (Super. Ct. Santa Barbara County, No. 1313307) (*Marking-Epps*). The defendant obtained new counsel, and he so informed Genis in writing on the day of a preliminary hearing. Both Genis and the new counsel appeared. During the hearing, the deputy district attorney stated on the record that she had provided discovery to the new counsel, who had requested it, but not to Genis. Genis voiced his surprise that the deputy had produced discovery *before* the new counsel became the attorney of record.

Genis quickly prepared a State Bar complaint claiming the deputy had disclosed and provided police reports and confidential information relating to the prosecution of a felonious criminal offense of his former client, in violation of Penal Code section 1054.2,[9] which is conduct constituting a misdemeanor. Before sending the complaint to the State Bar, he sent an email to the District Attorney's Office, virulently complaining about the deputy and attaching a copy of the State Bar complaint.

[9] Penal Code section 1054.2 states "no attorney may disclose" to a defendant, members of the defendant's family, or "anyone else," the address or telephone number of a victim or witness unless specifically permitted to do so by the court after a hearing and a showing of good cause.

OCTC alleged that Genis violated section 6068, subdivision (a),[10] by filing a State Bar complaint that was false and malicious and made in violation of section 6043.5.[11] The hearing judge found him not culpable, and we agree.

No published case law interprets section 6043.5. As urged by OCTC, we conclude that it must show three things to prevail: (1) the complaint was false; (2) Genis knew it was false; and (3) he acted maliciously. We find OCTC has failed to demonstrate the first element — falsity. The facts stated in the State Bar complaint are true, in that the deputy provided discovery to new counsel before he was officially entitled to receive it. However, OCTC also argues Genis's interpretation of the Penal Code section was "false" because the statute does not apply to prosecutors. In support of its position, OCTC offers a plain language reading of the statute, but concedes that no case law supports its interpretation. As a preliminary matter, we question how an interpretation of a statute can be construed as false because it is a legal question, not a question of fact. Further, OCTC's statutory interpretation is not authority upon which we may rely. Finding OCTC has not established falsity of the State Bar complaint, we affirm the hearing judge and dismiss Count One with prejudice.

2. Count Two

In an unrelated case where both Genis and the same deputy from the *Marking-Epps* case were counsel, Genis filed a motion to strike that contained the following statement: "This is yet another example of [the deputy district attorney] acting in ignorance and breaking the law, all in the name of performing her official duties as a Deputy District Attorney. On February 23, 2010,

---

[10] Section 6068, subdivision (a), provides that it is the duty of an attorney "[t]o support the Constitution and laws of the United States and of this state."

[11] Section 6043.5, subdivision (a), provides: "Every person who reports to the State Bar or causes a complaint to be filed with the State Bar that an attorney has engaged in professional misconduct, knowing the report or complaint to be false and malicious, is guilty of a misdemeanor."

she admitted to committing a misdemeanor violation of Penal Code section 1054.2 by giving police reports and other sensitive confidential information to someone other than a person authorized by that code section."

OCTC alleges this statement was dishonest and violates section 6106[12] because Genis knew the deputy did not admit to committing a misdemeanor criminal offense. The deputy did, however, admit to the facts which Genis argues constitute a Penal Code violation. While Genis overstated matters, his claim, made as an argument in a single motion, does not constitute moral turpitude, dishonesty, or corruption. OCTC has not cited any cases finding a violation of section 6106 on similar facts, and we find none in our own review of the case law. We affirm the hearing judge and dismiss Count Two with prejudice.

III. SIGNIFICANT AGGRAVATION AND MITIGATION ARE PRESENT[13]

The hearing judge correctly found the following factors in aggravation. Genis committed multiple acts of misconduct by violating three court orders in two DUI cases. (Std. 1.5(b).) His violation of the in limine order in the *Moreno* matter was surrounded by bad faith because he clearly understood the order and defiantly violated it to cause prejudice. (Std. 1.5(d).) Genis also caused significant harm to the administration of justice, as reflected in the testimony of the two trial court judges, their rulings in the underlying cases, and the appellate division's decision affirming the *Whitus* sanctions order. (Std. 1.5(f).) Genis's indifference and lack of insight were on display in both cases, particularly before the appellate division and during his disciplinary hearing where he failed to fully acknowledge his wrongdoing.[14] (See std. 1.5(g); *People v.*

---

[12] Section 6106 prohibits attorneys from engaging in any act involving moral turpitude, dishonesty, or corruption.

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

[14] Genis did testify he regretted his conduct before the appellate panel: "The manner in which I conducted myself on that appeal was not good." When asked if he showed disrespect to

Whitus, *supra,* 209 Cal.App.4th Supp.1; *Weber v. State Bar* (1988) 47 Cal.3d 492, 506 [lack of remorse and failure to acknowledge wrongdoing are aggravating factors].) Overall, we assign significant aggregate weight to these factors in aggravation.

In mitigation, we agree with the hearing judge that Genis's discipline-free practice for more than 30 years is entitled to significant credit. (Std. 1.6(a) [mitigation for no prior record of discipline over many years coupled with present misconduct that is not serious].) We reject OCTC's request that we assign no mitigation because Genis's misconduct is serious, and is not aberrational — this is his only discipline case in three decades of practice. We also reject OCTC's argument that Genis is not entitled to mitigation for good character. (Std. 1.6(f).) The record reveals he has served the legal profession by co-authoring practice manuals used by the California DUI Association. He also served on the organization's board and on its Amicus Curiae committee, donating hundreds of hours of his time as amicus curiae counsel in cases before the California Supreme Court involving significant DUI legal issues. Finally, Genis estimates that, over his career, he has personally handled at least 30 pro bono appeals and numerous cases for a reduced fee. His significant contributions to the legal profession, in particular his amicus and other pro bono work, are entitled to considerable mitigation credit. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service is mitigating factor]; *Rose v. State Bar* (1989) 49 Cal.3d 646, 667 [mitigating weight for demonstrated legal abilities and zeal in undertaking pro bono work].)

---

the panel, he admitted: "I did. I'm not proud of it." However, expressing remorse for misconduct is "an elementary moral precept which, standing alone, deserves no special consideration in determining the appropriate discipline." (*Hipolito v. State Bar* (1989) 48 Cal.3d 621, 627, fn. 2.)

IV. A 30-DAY ACTUAL SUSPENSION IS APPROPRIATE DISCIPLINE[15]

Our analysis begins with the standards, which promote consistent and uniform application of disciplinary measures. (*In re Silverton* (2005) 36 Cal.4th 81, 91 [Supreme Court will not reject recommendation arising from standards unless grave doubts as to propriety of recommended discipline].) Standard 2.8(a) applies here and provides that "[d]isbarment or actual suspension is appropriate" for disobeying a court order.

OCTC's position on discipline is somewhat unclear. In its opening brief, it seeks a one-year actual suspension on grounds Genis is culpable of all four counts. In its rebuttal brief, OCTC states Genis's court order violations alone warrant a one-year actual suspension, but acknowledges no published cases support this level of discipline.

Genis argues that case law does not support a 90-day actual suspension and cites four cases for the proposition that violations of court orders have most often resulted in a private reproval or a stayed suspension.[16] He overlooks that the presumptive discipline under the current standard, which was not in effect when the cited cases were decided, calls for a period of *actual* suspension. Moreover, section 6103 calls for a suspension (violation of court orders "constitute causes for disbarment or suspension"), and we take into account the Supreme Court's admonition that violations of court orders are serious misconduct (*Barnum v. State Bar* (1990) 52 Cal.3d 104, 112 ["Other than outright deceit, it is difficult to imagine conduct in the course of legal representation more unbefitting an attorney"]). At the same time, we agree with Genis that the

---

[15] 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.)

[16] *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41 (six-month stayed suspension); *In the Matter of Respondent Y* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862 (private reproval); *In the Matter of Respondent X* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592 (private reproval); *In the Matter of Jeffers* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211 (one-year stayed suspension).

decisional law does not support a 90-day suspension, nor did the hearing decision cite to a case to support this level of discipline.

Absent clear direction from the case law, we focus our attention on this case's unique facts, which lead us to conclude that Genis's misconduct warrants discipline on the low end of the range suggested by standard 2.8(a).[17] To begin, his failure to obey court orders did not result from incompetence, carelessness, or indifference to client needs; nor did his misconduct compromise his clients' defense or otherwise cause them harm. Notably, he paid the sanctions in full. More generally, Genis is viewed as a skilled attorney who uses an aggressive litigation style to his client's advantage. He is committed to pro bono service on behalf of his clients and his profession and has no prior record of discipline in more than 30 years of practice.

At the same time, we cannot minimize his bullying conduct before the appellate division, which is unacceptable and further supports imposing an actual suspension. Such conduct impedes the function of the legal system and undermines the integrity of the legal profession. (See *People v. Chong* (1999) 76 Cal.App.4th 232, 243 ["[A]n attorney, 'however zealous in his client's behalf, has, as an officer of the court, a paramount obligation to the due and orderly administration of justice. . . .' [Citation.] An attorney must not willfully disobey a court's order and must maintain a respectful attitude toward the court. [Citations.]"].) Genis's conduct before the appellate panel cannot be excused in the name of zealous representation. (See *In re Marriage of Davenport* (2011) 194 Cal.App.4th 1507, 1537 ["Zeal and vigor in the representation of clients are commendable. So are civility, courtesy, and cooperation. They are not mutually exclusive"].)

We find that a 30-day actual suspension is fair and appropriate discipline. A month-long suspension and a two-year probation period is intended to impress upon Genis that his improper

[17] "Actual suspension is generally for a period of thirty days, sixty days, ninety days, six months, one year, eighteen months, two years, or three years. . . ." (Std. 1.2(c)(1).)

conduct toward the courts will not be tolerated.[18] A lengthier suspension would, however, ignore that he did not harm his clients and has maintained his legal practice for decades without discipline.

V. RECOMMENDATION

For the foregoing reasons, we recommend that Darryl Wayne Genis be suspended from the practice of law for one year, that execution of that suspension be 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 a minimum of the first 30 days of probation.

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

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

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

5. He must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of his probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.

6. Subject to the assertion of applicable privileges, he must answer fully, promptly, and truthfully, any inquiries of the Office of Probation that are directed to him personally or in

[18] See *Ramirez v. State Bar* (1980) 28 Cal.3d 402, 414 (where attorney maligned appellate judges in a brief, Supreme Court instructed: "Appropriate discipline must be imposed, if for no other reason than the protection of the public and preservation of respect for the courts and the legal profession.")

writing, relating to whether he is complying or has complied with the conditions contained herein.

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

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

VI. PROFESSIONAL RESPONSIBILITY EXAMINATION

We further recommend that Genis be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline 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).)

VII. COSTS

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

PURCELL, P. J.

WE CONCUR:

EPSTEIN, J.

McELROY, J.*

*Hearing Judge of the State Bar Court, assigned by the Presiding Judge pursuant to rule 5.155(F) of the Rules of Procedure of the State Bar.