PUBLIC MATTER – DESIGNATED FOR PUBLICATION

Filed April 12, 2016

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case No. 12-O-12062
	)	
MICHAEL R. CARVER,	)	OPINION AND ORDER
	)	
A Member of the State Bar, No. 203925.	)	
	)	

This is Michael R. Carver's third disciplinary matter since his 1999 admission to the State Bar of California. He received a public reproval with conditions in 2011, based on his misdemeanor convictions for driving without a valid license and resisting arrest (*Carver I*). In 2015, he was suspended from the practice of law for 90 days for failing to comply with the conditions of his reproval (*Carver II*).

In the present case, a hearing judge found Carver culpable of acting with moral turpitude by knowingly, or with gross negligence, engaging in the unauthorized practice of law (UPL) while on suspension. In recommending discipline, including a 90-day actual suspension, the judge considered *Carver I* in aggravation, but declined to consider *Carver II* because it was pending on review and not yet final.

The Office of the Chief Trial Counsel of the State Bar (OCTC) appeals. It argues that Carver knowingly committed UPL and that the hearing judge erred by not considering *Carver II* as an aggravating factor. OCTC contends that Carver's two prior discipline records render disbarment appropriate under our disciplinary standards. Carver did not seek review or file a responsive brief in this appeal.

Upon independent review of the record (Cal. Rules of Court, rule 9.12), we agree with the hearing judge that Carver committed UPL amounting to moral turpitude, but clarify that he did so with willful blindness to his ineligible status, equivalent to knowledge, and not through gross negligence. We also find that the judge erred by not considering *Carver II*, as required by the State Bar Rules of Procedure directing that prior disciplinary records are admissible, whether final or not.

After reviewing both of Carver's prior disciplines, we conclude that he should be disbarred. His misconduct over several years demonstrates that he is unable or unwilling to follow ethical rules. Further, he failed to prove compelling mitigation. We cannot discern from the record any reason to depart from the guiding disciplinary standards indicating that disbarment is the appropriate discipline.

I. PROCEDURAL SUMMARY

On October 31, 2013, OCTC filed a two-count Notice of Disciplinary Charges (NDC). The hearing judge held a two-day trial beginning on May 23, 2014. The parties submitted closing briefs and post-trial supplemental briefs addressing whether the judge should consider *Carver II*, which was pending on review. On September 26, 2014, the judge issued a decision finding Carver culpable on both counts, noting that he did not consider *Carver II* as an aggravating factor, and recommending discipline including a 90-day actual suspension.

Carver failed to file a responsive brief and has therefore waived any challenge to the hearing judge's factual findings. (Rules Proc. of State Bar, rule 5.152(C) ["Any factual error that is not raised on review is waived by the parties"].)[1] He was also precluded from appearing at oral argument before the Review Department. (Rule 5.153(A) [failure to file timely responsive brief precludes party from appearing at oral argument, absent authorization from Presiding

[1] All further references to rules are to the Rules of Procedure of the State Bar of California unless otherwise noted.

Judge].) The record clearly and convincingly supports the hearing judge's material factual findings,[2] which we adopt, except where noted, and summarize below. (Rule 5.155(A) [great weight given to hearing judge's findings of fact].)

II. CARVER'S DISCIPLINE HISTORY

A. *Carver I*

Carver was arrested on April 22, 2008, for two misdemeanor violations—driving without a valid license (Veh. Code, § 12500, subd. (a)) and resisting or obstructing a police officer (Pen. Code, § 148, subd. (a)(1)). In 2008, a jury found him guilty of the Vehicle Code violation, but could not reach a verdict on the Penal Code violation; a second trial in 2009 resulted in a conviction of the Penal Code violation. Carver was sentenced for the Vehicle Code violation in 2008 and for the Penal Code violation in 2009. The matter was referred to the State Bar, and in early 2011, Carver stipulated to a public reproval with conditions based on these convictions.

B. *Carver II*

In November 2011, OCTC filed an NDC initiating *Carver II* and charging him with violating his reproval conditions from *Carver I.* The alleged violations included failing to timely contact his probation officer, file required quarterly reports, and report his compliance with the probation conditions in his underlying criminal matter.

1. Carver Evaded Service of the NDC

At the time OCTC commenced *Carver II,* Carver's official membership address was a private mailbox company, which he believed would not accept certified mail on his behalf. Nevertheless, a company employee signed for Carver's certified mail without authorization.

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

Thereafter, Carver refused to open the mail, which contained either the NDC or the amended NDC filed in *Carver II*, or both.

Carver did not timely respond to the *Carver II* NDC or appear at a status conference. As a result, an OCTC prosecutor informed him by email that the hearing judge expected OCTC to file a default motion if Carver did not respond to the NDC. Carver replied that he had not seen a complaint or been properly served. The prosecutor countered that Carver had in fact been properly served at his official membership address, and promptly emailed him a copy of the NDC. On January 10, 2012, the prosecutor warned that she would move for his default if she did not receive his response by January 12, 2012. Carver took no action.

2. Carver Was Ineligible to Practice Law as of February 18, 2012

On February 2, 2012, and upon motion by OCTC, a hearing judge entered Carver's default (the Default Order) under rule 5.80(D), and enrolled him as inactive, effective three days after service of the Default Order. On February 15, 2012, the Hearing Department properly served the Default Order on Carver at his new membership address via both certified and U.S. Mail, along with a signed proof of service and a copy of its letter notifying the Supreme Court of his impending inactive status. By this time, Carver had changed his membership address from the private mailbox company to a U.S. Mail post office box that he knew could not accept certified mail. At trial, Carver testified that he did not sign for or pick up mail from his post office box from January 2012 until roughly March 10, 2012. On February 18, 2012, Carver was enrolled as inactive, pursuant to Business and Professions Code, section 6007, subdivision (e)[3] (involuntary inactive enrollment required when default has been entered and served), and he became ineligible to practice law.

[3] All further references to sections are to the Business and Professions Code unless otherwise noted.

3. Carver Served and Filed Documents and Appeared in Court While Inactive

On March 1, 2012, two weeks after being enrolled inactive, Carver served a notice of his limited scope representation upon the Department of Child Support Services, informing it that he intended to appear at an upcoming hearing on behalf of his client. On March 2, 2012, Carver made two appearances for his client in Orange County Superior Court: first, before a court commissioner, by filing an objection and a supporting declaration seeking to disqualify the commissioner; and second, when his case was transferred to the Honorable David Belz, by stating his appearance for his client before the judge. Judge Belz informed Carver that he was not enrolled as an active member of the State Bar.[4] Carver acted surprised, and claimed that a membership dues issue must have caused the status change.

4. Discipline Imposed in *Carver II*

A hearing judge later granted Carver limited relief from his *Carver II* default (rule 5.83(H)(3)), found him culpable of violating his reproval conditions, and recommended discipline. In November 2014, we affirmed culpability and recommended discipline including a 90-day actual suspension. (*In the Matter of Carver* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 348, 354.)[5]

III. CARVER IS CULPABLE OF UPL

A. Carver Committed UPL (Count One)

Like the hearing judge, we find that Carver held himself out as entitled to practice law and actually practiced law when he was not an active member of the State Bar, as alleged in Count One of the NDC. By filing and serving court documents and making court appearances

[4] We note that Carver's appearance before Judge Belz occurred on March 2, 2012, not on April 13, 2012, as the hearing judge found.

[5] By order filed May 4, 2015, we took judicial notice of our opinion in *Carver II*. We now take judicial notice, sua sponte, of the Supreme Court's order filed March 20, 2015 (S223636), imposing the discipline recommended in our *Carver II* opinion. (Rule 5.156(B).)

on his client's behalf, Carver violated sections 6068, subdivision (a), 6125, and 6126.[6] (*In re Utz* (1989) 48 Cal.3d 468, 483, fn. 11 [practice of law includes doing and performing services in any matter pending in court, providing legal advice and counsel, and preparing legal instruments through which rights may be secured].) We assign no disciplinary weight for these violations, however, as they are based on the same facts that underlie our culpability finding for moral turpitude, discussed below, which supports the same or greater discipline. (*In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127 [declining to assign additional disciplinary weight for lesser-included violation].)

B. Carver's UPL Amounts to Moral Turpitude (Count Two)

The hearing judge found, as alleged in Count Two of the NDC, that Carver committed an act of moral turpitude in violation of section 6106[7] by engaging in UPL when he knew, or was grossly negligent in not knowing, that he was an inactive member of the State Bar. OCTC argues that Carver "knew of the default and inactive enrollment and intentionally practiced law," as opposed to acting with gross negligence.[8] Resolving all reasonable doubts in Carver's favor (*Lee v. State Bar* (1970) 2 Cal.3d 927, 939), we find that OCTC did not prove that Carver knew *in fact* that he had been enrolled inactive at the time he committed UPL.

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[6] Section 6125 prohibits the practice of law in California without active State Bar membership; section 6126 prohibits an attorney from advertising or holding himself out as entitled to practice law without active State Bar membership; and section 6068, subdivision (a), requires that an attorney support state laws. (See *In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 506 [appropriate method of charging violations of §§ 6125 and 6126 is by charging violation of § 6068, subd. (a)].)

[7] Section 6106 provides, in pertinent part: "The commission of any act involving moral turpitude, dishonesty or corruption . . . constitutes a cause for disbarment or suspension."

[8] Either finding may form the basis of a moral turpitude charge (*In the Matter of Mason* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639, 641-642 [attorney appearing in court knowing he was suspended involved moral turpitude]; *In the Matter of Wyrick* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83, 91 [UPL through gross negligence may violate § 6106].) The distinction is relevant, however, to determine the appropriate discipline for UPL under the standards: "The degree of sanction [for UPL] depends on whether the member *knowingly* engaged in the unauthorized practice of law." (Std. 2.10(a), (b), italics added.)

But the record establishes that Carver was aware that OCTC intended to move for his default in mid-January 2012, and he therefore knew there was a high probability he would be ordered inactive. Moreover, he purposely avoided receiving notice from the State Bar that would advise him of any alteration to his status by changing his membership address of record to one that could not receive certified mail, by failing to pick up or review mail sent to that address, and by not checking the status of his license before practicing law.[9] Indeed, he willfully blinded himself to the fact that he was not eligible to practice. Thus, Carver is culpable of moral turpitude by committing UPL through willful blindness, which is tantamount to having actual knowledge that he was ineligible to practice law. (Cf., e.g., *Global-Tech Appliances, Inc. v. SEB S.A.* (2011) 563 U.S. 754, 766-768 [finding willful blindness equivalent to knowledge in patent infringement case]; *Levy v. Irvine* (1901) 134 Cal. 664, 671-672 [finding creditor's "willing ignorance is to be regarded as equivalent to actual knowledge" of debtor's insolvency].)

IV. SIGNIFICANT AGGRAVATION OUTWEIGHS LIMITED MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct[10] requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Carver to meet the same burden to prove mitigation.

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[9] By changing his membership address to avoid service, Carver acted in bad faith in contravention of the purpose of section 6002.1, which requires each member to keep the State Bar apprised of his current address and provides that the State Bar will serve notice initiating any disciplinary proceeding via certified mail at that membership address. (§ 6002.1, subds. (a), (c).)

[10] The standards were revised and renumbered effective July 1, 2015. Because this request for review was submitted for ruling after that date, we apply the revised version of the standards, and all further references to standards are to this source.

A. Aggravating Circumstances

1. Prior Discipline

Carver's misconduct is significantly aggravated by his two prior discipline records because they demonstrate his ongoing disrespect for the law. (Std. 1.5(a) [prior record of discipline is aggravating circumstance].) In *Carver I*, Carver defied a police order, evidencing his "lack of respect for the rule of law, which reflect[ed] negatively on the legal profession." (*In the Matter of Carver*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 355.) Then he disobeyed disciplinary orders in *Carver II*, and disregarded a court order in the present case. (*In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443-444 [similarities between prior and current misconduct render previous discipline more serious, as they indicate prior discipline did not rehabilitate]; *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" than willful violation of court orders].) Finally, he was dishonest during the proceedings in *Carver II* and attempted to portray his misstatements as merely "technically inaccurate," revealing his "inability to understand the high degree of honesty expected of attorneys . . . ." (*In the Matter of Carver*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 355.)

2. Concealment

Carver concealed the reason for his inactive status from Judge Belz when he claimed that it must have been related to non-payment of his State Bar dues. (Std. 1.5(f) [concealment is aggravating circumstance].) His claim was disingenuous because he knew that OCTC intended to move for his default in *Carver II*, which would have caused his inactive enrollment. We assign moderate aggravation for Carver's concealment.[11]

[11] The hearing judge found that Carver's efforts to avoid service involved bad faith, dishonesty, or concealment, and warranted aggravation under former standard 1.5(d) (as revised, eff. Jan. 1, 2014). We agree that Carver acted in bad faith, but afford no aggravation for it

3. Indifference

We agree with the hearing judge that Carver demonstrated indifference toward his misconduct by maintaining an untenable legal claim—that he was not properly served with pleadings in *Carver II* and therefore was not required to obey any default order enrolling him as inactive. (Std. 1.5(k) [indifference toward rectification or atonement for consequences of misconduct is aggravating circumstance]; *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 647 [use of unsupported arguments to evade culpability reveals lack of appreciation for misconduct and ethical obligations]; *Weber v. State Bar* (1988) 47 Cal.3d 492, 506 [lack of remorse and failure to acknowledge wrongdoing are aggravating factors].) Moreover, Carver has underscored his indifference by failing to respond to this appeal. We assign considerable aggravating weight to Carver's overall indifference.[12]

B. Mitigating Circumstances

1. Good Character

Carver is entitled to mitigation if he proved "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).) He presented the testimony of one character witness and the declarations of four others. Those witnesses included an attorney, a law graduate employed by the State of Arizona, a paralegal, and two clients.[13] Each attested that Carver is honest and has

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because we relied on those facts to find him culpable of moral turpitude. (*In the Matter of Sampson*, *supra*, 3 Cal. State Bar Ct. Rptr. at pp. 132-133.)

[12] OCTC claims Carver caused significant harm to his client, the Department of Child Support Services, the superior court, and "another party whose case could not be scheduled on [March 2, 2012] because [Carver] had taken it." (Std. 1.5(j) [providing aggravation for "significant harm to the client, the public, or the administration of justice"].) We reject these claims as speculative; the record lacks clear and convincing evidence of specific harm to these parties.

[13] The decision below mistakenly states that Carver presented six character witnesses.

good character. One client testified that Carver was "very fair, and went beyond the call of duty."

The hearing judge found that this character evidence warrants only moderate mitigating weight because the witnesses did not represent a broad cross-section of the legal and general communities. (*In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50 [assigning diminished mitigation for character evidence from four witnesses who did not constitute wide range of references in legal and general communities].) We agree.[14]

2. No Mitigation for Extreme Emotional Difficulties

Carver may receive mitigation for extreme emotional difficulties if: (1) he suffered from them at the time of his misconduct; (2) the difficulties are established by expert testimony as being directly responsible for the misconduct; and (3) the difficulties no longer pose a risk for future misconduct. (Std. 1.6(d).) The hearing judge assigned substantial mitigation to Carver's stressful personal circumstances at the time of the misconduct. We afford no mitigation on this point because Carver did not establish a nexus between his difficulties and his misconduct; he did not commit UPL out of distraction due to personal stressors, but rather because he deliberately avoided receiving notice that his law license was inactive.

V. DISCIPLINE

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession. (Std. 1.1.) We balance all relevant factors, including mitigating and aggravating circumstances, on a case-by-case basis to ensure that the discipline imposed is consistent with its purpose. (*In re Young* (1989) 49 Cal.3d 257, 266.)

[14] We reject OCTC's argument that a further reduction in mitigation is warranted because the witnesses were not aware of the full extent of Carver's misconduct. The witnesses were aware of the charges but still did not believe Carver had acted unethically.

A. Rule 5.106

As noted, the hearing judge should have considered *Carver II* as a prior discipline record. Rule 5.106(A) expressly defines a "prior record of discipline" to include, inter alia, "findings and decisions (*final or not*) reflecting or recommending that discipline be imposed on a party," including "recommended discipline that the Court of last resort in the jurisdiction has not yet approved." (Italics added.)[15] Rule 5.106(E) directs the judge to analyze non-final prior records of discipline in making a discipline recommendation, as follows:

> A record of prior discipline is not made inadmissible by the fact that the discipline has been recommended but has not yet been imposed. If a record of prior discipline that is not yet final is admitted, the Court shall specify the disposition:
> (1) if the non-final prior discipline recommendation is adopted; and
> (2) if the non-final prior discipline recommendation is dismissed or modified.

The hearing judge reasoned that the rule "does not apply to the pending review matter, because there has been no final decision of the State Bar Court, and therefore, no recommendation to the Supreme Court within the meaning of rule 5.106(E)." This analysis is contrary to the rule's language and to the decisional law establishing that finality is not required for the judge to consider cases pending in review as prior discipline records. (E.g., *In the Matter of Farrell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490, 497-498 [hearing judge properly considered matter as prior discipline, even though only Hearing Department decision and recommendation had been issued].) Further, the hearing judge's approach would deprive the Supreme Court of the required alternate recommendations where neither party seeks review and the Hearing Department's decision becomes the final recommendation. (Rule 5.111(C) [decision final unless timely request for review filed].) We conclude that the discipline in *Carver II* was a

[15] Similarly, standard 1.2(g) defines "[p]rior record of discipline" as including recommendations of discipline (final or not).

"prior record of discipline" under rule 5.106(A), and the hearing judge was obligated to consider it and specify alternate dispositions as provided in rule 5.106(E).[16]

B. Disbarment Is Appropriate Pursuant to Standard 1.8(b)

Our disciplinary analysis begins with the standards. While they are guidelines for discipline and are not mandatory, we give them great weight to promote consistency. (*In re Silverton* (2005) 36 Cal.4th 81, 91-92.) Importantly, the Supreme Court has instructed us to follow the standards "whenever possible" (*In re Young, supra*, 49 Cal.3d at p. 267, fn. 11), and also to look to comparable case law for guidance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311.)

We use a three-step approach to analyze the standards.

First, we determine which standard (or standards) 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, that standard is 1.8(b) as it addresses Carver's disciplinary history and it calls for disbarment, which is the most severe of the applicable sanctions.[17] Standard 1.8(b) provides that disbarment is appropriate where an attorney has two or more prior records of discipline if: (1) an actual suspension was ordered in any of the prior disciplinary matters; *or*

[16] The hearing judge expressed concern about the feasibility of recommending alternate disciplines, under rule 5.106(E), to address all potential "modified" discipline outcomes that could result on review. While a judge cannot anticipate every possible outcome, the rule requires the court to provide such alternate dispositions addressing any specific modified discipline outcome (or outcomes) that it views as reasonably likely.

[17] The following standards also apply: 2.10 (disbarment or actual suspension is the presumed sanction for UPL by a member who is enrolled involuntarily as inactive under section 6007, subdivision (e), with the degree of sanction depending on whether the member acted knowingly); and 2.11 (disbarment or actual suspension is the presumed sanction for an act of moral turpitude, with the degree of sanction depending on the magnitude of the misconduct, the extent to which it harmed or misled the victim, its impact on the administration of justice, and the extent to which it related to the member's practice of law).

(2) the prior and current disciplinary matters demonstrate a pattern of misconduct; *or* (3) the prior and current disciplinary matters demonstrate the attorney's unwillingness or inability to conform to ethical responsibilities. Carver has two prior records of discipline, an actual suspension was imposed in *Carver II*, and his prior and current disciplinary matters reveal that he is unwilling or unable to conform to his ethical responsibilities. Additionally, his failure to comply with the *Carver I* reproval conditions demonstrated a lapse of character and a disrespect for the legal system that directly relate to his fitness to practice law and to serve as an officer of the court. (*In the Matter of Carver*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 356.) His criminal conduct underlying *Carver I* (driving without a valid license and resisting arrest) suggests the same lapse, as does his UPL involving moral turpitude in the present case.

Second, we analyze whether Carver's case falls within an exception to standard 1.8(b), which permits us to deviate from recommending disbarment where "the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct." Carver does not qualify for an exemption because his present misconduct did not occur at the same time as the misconduct underlying his two prior discipline cases, and his mitigation for good character is neither compelling nor does it predominate over the significant aggravation for two prior discipline records, concealment, and indifference.

Third, we consider whether there is any reason to depart from the discipline called for by standard 1.8(b). We acknowledge that disbarment is not mandatory as a third discipline under this standard even where compelling mitigating circumstances do not clearly predominate. (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-507 [disbarment is not mandatory in every case of two or more prior disciplines, even where no compelling mitigating circumstances clearly predominate; analysis under former std. 1.7(b)]; *In the Matter of Miller* (Review Dept. 1990)

1 Cal. State Bar Ct. Rptr. 131, 136 [to fulfill "purposes of lawyer discipline, we must examine the nature and chronology of respondent's record of discipline"].) But if we deviate from recommending the presumptive discipline of disbarment, we must articulate reasons for doing so. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5 [requiring clear reasons for departure from standards]; see also stds. 1.2(i), 1.7(c).) Having failed to file a responsive brief, Carver has not identified a reason for us to depart from applying standard 1.8(b), and we cannot articulate any, given his varied misconduct over several years, his dishonesty in *Carver II,* and his bad faith and willful blindness to his professional obligations in the present case.

The State Bar and this court have been required to intervene three times to ensure that Carver adheres to the professional standards required of those who are licensed to practice law in California. Probation and suspension would be inadequate to prevent him from committing future misconduct that would endanger the public and the profession. (See *Barnum v. State Bar*, *supra*, 52 Cal.3d at pp. 112-113 [disbarment imposed where attorney's probation violations left court no reason to believe he would comply with lesser discipline].) Standard 1.8(b) and the decisional law support our conclusion that the public and the profession are best protected if Carver is disbarred.[18]

VI. RECOMMENDATION

We recommend that Michael R. Carver be disbarred from the practice of law and that his name be stricken from the roll of attorneys admitted to practice in California.

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[18] Compare *Barnum v. State Bar*, *supra*, 52 Cal.3d at p. 113 (disbarment where three prior disciplines; depression was not "most compelling" mitigation when weighed against risk of recurrence of misconduct), and *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63, 80 (disbarment where two prior disciplines and attorney was unable to conform conduct to ethical norms; no mitigation), with *In the Matter of Lawrence* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239, 246-248 (three-year actual suspension where three prior disciplines; attorney suffered extreme physical disabilities that caused or contributed to misconduct for 30 years and mitigation outweighed aggravation).

We also recommend that he must comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule, within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this matter.

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

VII. ORDER

Pursuant to section 6007, subdivision (c)(4), and rule 5.111(D)(1), Carver is ordered enrolled inactive. The order of inactive enrollment is effective three days after service of this opinion. (Rule 5.111(D)(1).)

PURCELL, P. J.

WE CONCUR:

EPSTEIN, J.

STOVITZ, J.*

* Retired Presiding Judge of the State Bar Court, serving as Review Judge Pro Tem by appointment of the California Supreme Court.