

Filed July 30, 2014

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of)	Case No. 11-O-18499
)	
MICHAEL ANTHONY CISNEROS,)	OPINION
)	
A Member of the State Bar, No. 105483.)	
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A hearing judge found Michael Anthony Cisneros culpable of two counts of moral turpitude (misrepresentation and misappropriation by gross negligence) and one count of failing to maintain client funds in trust. The judge found two factors in aggravation: a 1996 prior discipline record and multiple acts of wrongdoing. The judge also found four factors in mitigation: cooperation, good character, community service, and remorse. Ultimately, the judge recommended discipline including a six-month actual suspension.

The Office of the Chief Trial Counsel of the State Bar (OCTC) seeks review, requesting Cisneros’s disbarment. It argues the misappropriation was intentional and that some of the aggravation and mitigation findings are incorrect. Cisneros did not appeal, and concedes culpability for his misrepresentation and grossly negligent misappropriation, although he adamantly disputes the misappropriation was intentional.

Upon independent review (Cal. Rules of Court, rule 9.12), we agree with the hearing judge’s culpability findings and most mitigation and aggravation determinations. Guided by the standards and comparable case law, and given that Cisneros’s prior discipline resulted in a 90-day stayed suspension, we adopt the recommended six-month actual suspension as appropriate progressive discipline.

I. FACTS AND CULPABILITY

A. **Count One: Moral Turpitude — Misrepresentation (Bus. & Prof. Code, § 6106)**¹

The hearing judge found Cisneros culpable of moral turpitude in violation of section 6106 for making a misrepresentation to his client. At trial, Cisneros stipulated to facts establishing his culpability. On review, he does not dispute the judge's culpability finding, which we adopt. The following is a summary of the facts supporting culpability.

From 1998 to 2008, Cisneros was a partner at the law firm of Graham, Vaage & Cisneros (Graham Vaage). He represented SMS Financial, LLC (SMS) in numerous client matters. In early 2008, he filed a complaint on behalf of SMS that included causes of action for judicial foreclosure of a deed of trust and breach of continuing guaranty. Cisneros sought a writ of attachment, and a hearing was scheduled for June 11, 2008, after several continuances. Two days before the hearing, Cisneros called Jonathan Hoffer, an SMS partner, claiming he had traveled six hours roundtrip to attend the hearing. He advised Hoffer that the writ application had been taken under submission. None of this was true, which Hoffer discovered when he contacted the court. Hoffer confronted Cisneros by telephone. Cisneros apologized for making the misrepresentation. Thereafter, SMS terminated Cisneros, who fully cooperated in returning SMS's 90 to 100 client files. At trial, Cisneros testified he felt "horrible" about the situation, but did not explain why he had lied to his client.

¹ According to section 6106, an attorney's commission of any act involving moral turpitude, dishonesty, or corruption is cause for disbarment or suspension. All further references to sections are to the Business and Professions Code.

**B. Count Two: Failure to Maintain Trust Funds (Rules Prof. Conduct, rule 4-100(A))²
Count Three: Moral Turpitude — Misappropriation (§ 6106)**

The hearing judge found Cisneros culpable of moral turpitude in violation of section 6106 for misappropriating client funds through gross negligence. The judge also found Cisneros failed to maintain those funds in trust, in violation of rule 4-100(A). We agree with both findings.

1. Cisneros's Standard Office Procedures

Cisneros has been practicing bankruptcy law since he was admitted to the bar in 1982. He had an arrangement with Graham Vaage that permitted him to work on his own bankruptcy matters, using the firm's name and collecting the entire fee. In Chapter 13 matters, he typically collected a portion of his fee up front, and received the balance through payments made by the Chapter 13 trustee. Since the firm did not have an accountant or bookkeeper, Cisneros relied on support staff to open his mail, identify the attorney fee checks from his bankruptcy cases, and deliver those checks to him. He then deposited the checks directly into his personal accounts.

2. The Tscha Bankruptcy

In November 2003, debtors Brian Tscha and Chu Young Tscha filed a Chapter 13 Bankruptcy Petition in the United States Bankruptcy Court for the Central District of California (Tscha bankruptcy). SMS employed Cisneros to recover a \$35,000 debt the Tschas owed SMS. In the 21 months from November 7, 2005, to September 27, 2007, the Tscha bankruptcy trustee sent Cisneros nine checks totaling \$7,237.33, made payable to Graham Vaage, as follows:

² Rule 4-100(A) of the Rules of Professional Conduct provides that all funds received or held for the benefit of clients must be deposited in a client trust account and no funds belonging to the attorney or law firm may be deposited therein or otherwise commingled except in certain instances not applicable to the present case. All further references to rules are to this source.

<i>Check No.</i>	<i>Date of Issue</i>	<i>Amount</i>
581989	November 7, 2005	\$ 630.64
584466	February 28, 2006	\$ 513.74
585859	April 27, 2006	\$ 508.11
586547	May 30, 2006	\$ 507.29
590666	November 30, 2006	\$ 502.32
591275	December 28, 2006	\$ 501.49
592535	February 27, 2007	\$ 521.46
593798	April 30, 2007	\$ 497.38
597081	September 27, 2007	\$ 3,054.90
	TOTAL	\$ 7,237.33

Per standard office procedure, Cisneros's staff brought the checks to him after opening the firm mail. These checks did not reference the client, debtor, creditor, or case number. Cisneros testified he believed they were attorney fee payments he had earned in Chapter 13 cases. However, he did nothing to confirm that belief before depositing the funds into his personal accounts.

As it turned out, the checks were not for attorney fees; they were distributions from the Tscha bankruptcy made on behalf of SMS. This fact came to light in early May 2009, more than six months after Cisneros left Graham Vaage. SMS received a report disclosing that the Tscha bankruptcy had paid it \$35,000. However, SMS records showed it received only \$28,000.³ SMS promptly emailed a Graham Vaage partner, Susan Vaage, inquiring about the approximately \$7,000 discrepancy. On May 14, 2009, Graham Vaage paid SMS \$7,237.33 plus \$701.52 in interest. The law firm then contacted Cisneros, who immediately agreed to reimburse the firm, and did so in full on June 22, 2009.

³ The record below does not indicate whether the \$28,000 was sent to and/or made payable to Graham Vaage.

3. Cisneros Misappropriated Client Funds by Gross Negligence and Failed to Maintain Them in Trust

The hearing judge found that Cisneros misappropriated client funds through gross negligence. On review, neither party disputes that Cisneros misappropriated \$7,237.33 of SMS funds. The issue is whether, in so doing, he acted intentionally or with gross negligence. At trial, OCTC argued Cisneros acted intentionally or at least with gross negligence. On review, OCTC asserts the misappropriation was intentional. Cisneros contends it was grossly negligent. We do not find clear and convincing evidence of intentional misappropriation.⁴

OCTC's argument — that Cisneros knew *at the time* he deposited the nine checks into his personal account that they were distributions from the bankruptcy trustee and were intended for SMS — is not supported by the record. OCTC points to the stipulated fact that Graham Vaage *was listed* as a secured creditor on behalf of SMS as evidence that Cisneros knew at the time he deposited the funds that they should have been distributed to Graham Vaage on behalf of SMS, and not to himself as his attorney fees. In fact, Cisneros did not stipulate that he *knew* Graham Vaage was a secured creditor when he received and deposited the checks, and the record does not establish his knowledge at the time. OCTC called no witnesses other than Cisneros, submitted no documents from the Tscha bankruptcy other than the bankruptcy docket and copies of the checks, and did not otherwise prove that Cisneros knew when he deposited the funds that they were payments intended for SMS.

Indeed, the weight of the evidence establishes that each time Cisneros made a deposit, he believed the check was a fee payment for his bankruptcy work. Notably, the checks did not

⁴ 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.) In its rebuttal brief, OCTC suggests Cisneros has the burden of establishing the misappropriation was the result of gross negligence rather than intentional conduct. This is incorrect. It is OCTC, not Cisneros, that “must prove culpability by clear and convincing evidence,” including whether Cisneros’s misappropriation was the result of intentional misconduct or gross negligence. (Rules Proc. of State Bar, rule 5.103.)

identify what or who the payments were for, and they were made on a periodic basis for relatively small amounts. In addition, Cisneros testified he had regularly received attorney fees in other bankruptcy matters in the form of checks made payable to Graham Vaage. This testimony is consistent with his arrangement with Graham Vaage to use its name in bankruptcy matters and yet to retain all fees from such matters as his own.

Nonetheless, Cisneros admits the funds were his client's and that he deposited them into his personal accounts nine times over a 21-month period. His mistaken belief does not excuse his misconduct. Cisneros clearly violated his "personal obligation of reasonable care to comply with the critically important rules for the safekeeping and disposition of client funds.

[Citations.]" (*Palomo v. State Bar* (1984) 36 Cal.3d 785, 795.) Given his repeated lapses, he is culpable of misappropriation by gross negligence, in violation of section 6106. (See *Lipson v. State Bar* (1991) 53 Cal.3d 1010, 1020 [moral turpitude finding proper for gross carelessness in failing to maintain trust account].)

In addition, Cisneros's failure to maintain SMS funds in his trust account is a violation of rule 4-100(A) as charged. But we assign it no additional weight because the misconduct underlying the section 6106 violation supports the same or greater discipline. (*In the Matter of Sampson* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 119, 127.)

II. AGGRAVATION AND MITIGATION

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

Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.6),⁵ while OCTC has the same burden to prove aggravating circumstances (std. 1.5).

A. Aggravation

1. Prior Record — 90-day Stayed Suspension (Std. 1.5(a))

On May 28, 1996, in State Bar Case No. 95-O-12008, Cisneros was ordered suspended for 90 days, stayed, and placed on two years' probation subject to conditions. The discipline was based on his work on a personal injury case from 1988 through 1992, where he represented a distant relative involving an unfamiliar area of law. Cisneros stipulated that he failed to: (1) act competently; and (2) distribute his client's share of a \$5,300 judicial arbitration award. There were no circumstances in aggravation and eight in mitigation, including Cisneros's voluntary settlement of the matter for much more than his former client's share of the arbitration award and his emotional distress due to his father's death.

The hearing judge found this prior discipline warranted only "some consideration in aggravation" since it was "relatively minor misconduct and was remote in time, having occurred more than ten years prior to the earliest misconduct in this matter." Neither party challenges this finding, and we adopt it. (*In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, 713 [no significant aggravation for prior discipline where misconduct occurred 17 years earlier, resulted in private reproof, and involved acts unrelated to present misconduct]; *In the Matter of Shinn* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96, 105 [no significant aggravation for prior discipline where misconduct occurred 20 years earlier, resulted in public reproof, and involved acts unrelated to present misconduct].)

⁵ On January 1, 2014, the standards were revised and renumbered. Since this case was submitted for ruling in 2014, we apply the new standards. All further references to standards are to the new standards, and references to the earlier version will be designated former standards.

2. Multiple Acts of Wrongdoing (1.5(b))

The hearing judge correctly found that Cisneros committed multiple acts of misconduct, which aggravate this case. (Std. 1.5(b).) OCTC argues that Cisneros’s “three intentional misrepresentations to SMS and nine separate misappropriations of SMS’s client funds” merit more serious aggravation than the hearing judge assigned. We disagree. Cisneros made one misrepresentation to his SMS client. As to the misappropriation, he mistakenly believed each time he deposited an SMS check into his personal account that it was payment for legal fees; in other words, he committed the same error nine times. Since these multiple acts form the basis of our finding of gross negligence, we do not assign additional aggravating weight. (See *In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 839 [two counts of misconduct arising from one transaction did not constitute multiple acts]; *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646 [two matters of misconduct may or may not be considered multiple acts].)⁶

3. Client Harm (Std. 1.5(f))

Standard 1.5(f) provides that “significant harm to the client, the public, or the administration of justice” is an aggravating circumstance. The hearing judge found that Cisneros’s misconduct did not cause significant harm, and we agree, although OCTC argues to the contrary. While SMS did not timely receive \$7,237.33 from the Tscha bankruptcy, Graham Vaage compensated for it by paying \$701.52 in interest, which Cisneros then reimbursed. (See *Kelly v. State Bar* (1991) 53 Cal.3d 509, 519-520 [loss of \$2,000 for six weeks is monetary loss albeit not grievous and \$750 loss for two years is genuine monetary injury although not severe].) For lack of evidence, we also reject OCTC’s contention that Graham Vaage suffered *significant* harm because Cisneros took several weeks to repay the firm, which had expended time and effort

⁶ Nor do we consider the rule 4-100(A) violation as an additional multiple act in aggravation since we relied on the same facts to find culpability for the misappropriation.

discovering the misappropriation. (*See In the Matter of Jensen* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283, 290 [no specific, cognizable harm to administration of justice for police, child services, and hotel staff efforts to investigate report of child left in hotel room].)

B. Mitigation

1. Cooperation (Std. 1.6(e))

The hearing judge assigned Cisneros “some mitigation for his cooperation with the State Bar” for stipulating to facts that established most of his culpability. As the judge properly noted, the stipulation “greatly reduced the amount of time to try this matter, and eliminated many of the witnesses that would otherwise have had to travel to the trial to testify.” We assign moderate mitigating weight to both this stipulation and Cisneros’s subsequent concession on review to the hearing judge’s culpability findings. (*See In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [more mitigating weight accorded when admission to culpability as well as facts].)

2. Good Character (Std. 1.6(f))

The hearing judge gave considerable mitigation credit to Cisneros’s evidence of his good character. We agree. Six witnesses, five of whom were current or former clients, praised Cisneros’s legal abilities and characterized him as an honest person who charged a fair price for his legal services. One attorney witness had known Cisneros for 30 years, was his co-counsel on several cases, and has before, and would again, refer work to Cisneros. (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [significant consideration given to attorney witnesses because they have “strong interest in maintaining the honest administration of

justice”.) All witnesses were aware of the charges against Cisneros, yet maintained their high opinion of his moral character.⁷

3. Community Service

The hearing judge assigned mitigation credit to Cisneros’s pro bono work and community service. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [pro bono work and community service are mitigating].) Cisneros testified to his involvement in several worthy community causes over a number of years, including performing pro bono work in juvenile and family law cases, voluntarily grading bar examinations, and serving as a judge pro tem in East Los Angeles. His community service merits mitigation credit, but we diminish its weight because Cisneros offered only his own testimony. (*In the Matter of Shalant, supra* 4 Cal. State Bar Ct. Rptr. at p. 840 [limited mitigation weight for community service established solely by attorney’s testimony].)

4. Remorse and Recognition of Wrongdoing (Std. 1.6(g))

The hearing judge found that Cisneros deserved some mitigating credit for his remorse and recognition of wrongdoing. We agree. At trial, Cisneros testified that he apologized to his client for lying and felt horrible about his misconduct. The judge found that he appeared to honestly exhibit remorse. We give great weight to this finding. (*Connor v. State Bar* (1990) 50 Cal.3d 1047, 1055 [credibility determinations entitled to great weight].) Moreover, Cisneros continues to accept his wrongdoing on review; in his responsive brief, he acknowledged “it was ultimately his responsibility to handle the [SMS bankruptcy] funds properly.”

5. Restitution (Std. 1.6(j))

The revised standards create a new category of mitigation in standard 1.6(j), which provides credit for restitution “made without the threat or force of administrative, disciplinary,

⁷ OCTC argues that we should assign less credit to Cisneros’s good character evidence because he did not call Jonathan Hoffer or Susan Vaage as witnesses. We reject this argument as we do not presume their testimony would have been unfavorable to Cisneros.

civil or criminal proceedings.” In May 2009, upon discovering that he misappropriated SMS funds which Graham Vaage had repaid with interest, Cisneros fully reimbursed his former firm in June 2009. He is entitled to mitigation credit for his prompt and voluntary payment of restitution before disciplinary charges were filed.

III. 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.) The Supreme Court instructs us to follow the standards “whenever possible” (*In re Young* (1989) 49 Cal.3d 257, 267, fn. 11), and give them great weight to promote consistency (*In re Silverton* (2005) 36 Cal.4th 81, 91). In addition to the standards, we also look to comparable cases for assistance. (See *Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311). The gravamen of this case involves moral turpitude arising from an intentional misrepresentation and a grossly negligent misappropriation. We conclude that the standards and relevant case law for such misconduct support a six-month actual suspension.

A. Intentional Misrepresentation

Standard 2.7 provides: “Disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member’s practice of law.” Clearly, Cisneros’s misrepresentation was intentional, misled his client, and was directly related to the practice of law because he falsely reported on a pending litigation matter. Given the broad range of discipline the standard suggests (disbarment or actual suspension), we find guidance in *Levin v.*

State Bar (1989) 47 Cal.3d 1140 and *In the Matter of Chesnut* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166.

In *Levin*, the Supreme Court imposed a six-month actual suspension for an attorney's misconduct in two client matters that included *repeated* dishonesty, communicating with a represented party, settling a lawsuit without client permission, forging a client's signature on a release, and mishandling the settlement funds. The misconduct was aggravated by attempts to conceal dishonest acts and multiple acts of wrongdoing, but tempered by 18 years of discipline-free practice, a delay in the disciplinary proceedings, no additional complaints since the State Bar began its investigation, and candor and cooperation. In *Chesnut*, we also recommended a six-month actual suspension where an attorney falsely claimed to two state courts (California and Texas) that he had personally served a summons and complaint on the adverse party in a divorce proceeding. The attorney's misconduct was aggravated by his lack of candor during his hearing and a prior disciplinary record.

Cisneros's wrongdoing is less serious than the misconduct in *Levin* and *Chesnut*. He made a single misrepresentation, albeit a serious one, that did not cause harm. It resulted in the loss of SMS as a client and contributed to his separation from Graham Vaage. On balance, we find that *Levin* and *Chesnut* are comparable and a six-month actual suspension is appropriate for Cisneros's misrepresentation.

B. Negligent Misappropriation

The standards and decisional law relevant to Cisneros's grossly negligent misappropriation also support a six-month actual suspension. New standard 2.1(b) provides:

“Disbarment *or actual suspension* is appropriate for misappropriation involving gross negligence.” (Italics added.)⁸

OCTC posits that Cisneros’s overall misconduct and record of discipline place him at the highest end of the range of discipline called for under standard 2.1(b), i.e., disbarment. We disagree. Cisneros’s misappropriation is not sufficiently egregious as to merit the harshest discipline for a grossly negligent misappropriation under the new standard.

With no case law to guide us in analyzing new standard 2.1(b), we look to past cases addressing grossly negligent misappropriations. In those cases, the Supreme Court noted a clear distinction between intentional and grossly negligent misappropriation, concluding that an “attorney who deliberately takes a client’s funds, intending to keep them permanently . . . is deserving of more severe discipline than an attorney who has acted negligently, without intent to deprive and without acts of deception.” (*Edwards v. State Bar* (1990) 52 Cal.3d 28, 38.) Applying this analysis, the Supreme Court and this court have recommended a six-month suspension or less for misappropriations that were not intentional, even when the attorney committed other misconduct or serious aggravation was proved.⁹

We find nothing in the record to establish that Cisneros harbored a dishonest or intentional motive when he misappropriated his client’s funds through his gross neglect. Further,

⁸ Because the trial occurred in 2013, the hearing judge properly considered former standard 2.2(a), which calls for disbarment for *any* misappropriation absent compelling mitigation that clearly predominates. Effective January 1, 2014, standard 2.1 replaced former standard 2.2(a).

⁹ See, e.g., *Brockway v. State Bar* (1991) 53 Cal.3d 51 (three-month suspension for \$500 grossly negligent misappropriation and failure to refund client funds, misconduct in second matter for acquiring adverse interest in client’s property; mitigated by 13 years of discipline-free practice in California and five in Iowa, and favorable character evidence; aggravated by questionable candor and indifference); *Howard v. State Bar* (1990) 51 Cal.3d 215 (six-month suspension for \$2,500 willful misappropriation while under influence of chemical dependency; limited mitigation for three years’ practice, restitution made under threat of discipline, alcoholism under control, and hearing held four years after misconduct).

he has made amends for his misconduct: he promptly paid restitution, expressed genuine remorse, and cooperated with OCTC throughout this proceeding. Finally, his misconduct caused no harm, and his case is further mitigated by good character and service to the community.

Considering all relevant factors, a six-month suspension rather than disbarment is in accordance with the standards and the case law, and will protect the public while preserving the integrity of the legal profession.¹⁰ We recommend that Cisneros attend trust accounting school to ensure he properly handles client funds in the future.

IV. RECOMMENDATION

For the foregoing reasons, we recommend that Michael Anthony Cisneros be suspended from the practice of law for two years, that execution of that suspension be stayed, and that he be placed on probation for three years on the following conditions:

1. He must be suspended from the practice of law for the first six months of his 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 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.
4. 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.
5. 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 writing, relating to whether he is complying or has complied with the conditions contained herein.

¹⁰ Since Cisneros received a 90-day stayed suspension in 1996, the six-month actual suspension here is also in accordance with standard 1.8(a), which requires that discipline be greater than the previously imposed sanction unless the prior discipline was remote in time or not serious, neither of which we find to be true.

6. 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 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.
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 of the State Bar's Client Trust Accounting School and passage of the tests given at the end of those sessions. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he shall not receive MCLE credit for attending Ethics and Client Trust Accounting Schools. (Rules Proc. of State Bar, rule 3201.)
8. 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 he has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

V. PROFESSIONAL RESPONSIBILITY EXAMINATION

We recommend that Cisneros 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 in this proceeding 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).)

VI. CALIFORNIA RULES OF COURT, RULE 9.20

We recommend that Cisneros be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.

VII. COSTS

We 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, J.

WE CONCUR:

EPSTEIN, Acting P. 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.