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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re) **SECOND AMENDED**
) **GENERAL ORDER 96-05**
ATTORNEY DISCIPLINE PROCEDURES)
IN BANKRUPTCY COURT)
_____)

Applicability

This general order establishes a process for court wide discipline of attorneys in the bankruptcy court.

These procedures shall apply when any judge of this court wishes to challenge the right of an attorney to practice before this court or recommends the imposition of attorney discipline intended to apply in all bankruptcy cases in this court.

Nothing in this general order is intended to limit or restrict the authority of any judge to impose sanctions on any attorney in any case or cases assigned to that judge.

Initiation of Disciplinary Proceedings

If a bankruptcy judge wishes to initiate disciplinary proceedings under this general order, the judge shall prepare and file with the Clerk of Court a written Statement of Cause

1 setting forth the judge's basis for recommending discipline and a description of the discipline
2 the referring judge believes is appropriate.

3 The clerk shall open a case file, assign a miscellaneous case number, initiate a docket
4 for the file, select three bankruptcy judges of this district at random (excluding the judge who
5 filed the Statement of Cause) to serve on the Hearing Panel (the "Panel") which will
6 determine whether the attorney shall be disciplined and, if so, the type and extent of
7 discipline. The most senior judge assigned to the Panel shall be the Presiding Judge. The
8 clerk shall prepare a Designation of Hearing Panel and Presiding Judge which shall include
9 a signature line for each of the designated judges. The signature of each judge shall certify
10 his or her acceptance of assignment to the Panel. Should any judge decline to serve, the
11 clerk shall select another judge to serve on the Panel, give written notice thereof to the other
12 judges on the Panel and issue a Supplemental Designation of Hearing Panel, which shall
13 contain a signature line for the newly appointed judge to accept the assignment.

14 Once the clerk has obtained the acceptance of three judges to serve on the Panel, the
15 clerk shall prepare a Notice of Assignment of Hearing Panel, which the clerk will serve on the
16 attorney named in the Statement of Cause ("the attorney") and on the local Office of the
17 United States Trustee, along with a copy of the Statement of Cause and a copy of this
18 general order. The attorney may file a motion for recusal as to any of the judges assigned
19 to the Panel within 14 days of the service of the Notice of the Assignment of Hearing Panel
20 and serve the motion on the Office of the United States Trustee. That motion may be heard
21 by any judge other than the referring judge, any judge assigned to the Panel, or any judge
22 who has declined to serve on the Panel. The assignment of the recusal motion to a judge
23 shall be made at random by the clerk, who shall give notice of the recusal hearing to the
24 attorney and to the Office of the United States Trustee at least 14 days before the hearing
25 date.

26 Once the period for bringing a recusal motion has terminated, or after disposition of

1 any recusal motion, the Presiding Judge shall advise the clerk of the date, time, and place
2 for the Disciplinary Hearing, whereupon the clerk shall prepare a Notice of Disciplinary
3 Hearing and mail the notice to the attorney and to the Office of the United States Trustee at
4 least 21 days before the hearing date.

6 **Hearing Procedures**

7 The attorney may appear at the Disciplinary Hearing with legal counsel and may
8 present evidence:

- 9 (A) Refuting the statements contained in the Statement of Cause,
- 10 (B) Mitigating the discipline (i.e., that notwithstanding the validity of the
11 statements in the Statement of Cause the attorney should not be
12 disciplined), and
- 13 (C) Bearing on the type and extent of disciplinary action appropriate under
14 the circumstances.

15 The Federal Rules of Evidence shall apply to the presentation of evidence at the
16 Disciplinary Hearing, and an official record of the proceedings shall be maintained as through
17 the Disciplinary Hearing were a contested matter as that term is defined in the Federal Rules
18 of Bankruptcy Procedure. The United States Trustee for the district may appear at the
19 hearing in person or by counsel and may participate in the presentation of evidence as
20 though she or he were a party to the proceeding. If the United States Trustee wishes to
21 appear at the hearing, she or he must file a Notice of Intent to Appear, setting forth the
22 purposes for the appearance, and serve that notice on the attorney at least 14 days before
23 the hearing. The Panel may disregard written statements or declarations of innocence or in
24 mitigation of the attorney's conduct unless they are filed with the court with copies delivered
25 promptly thereafter to the chambers of each member of the Panel at least 7 days prior to the
26 hearing. Written statements presented to the Panel for consideration as evidence may be

1 disregarded by the Panel if the declarant is unavailable at the hearing for cross-examination
2 and for examination by the Panel.

3 4 **Ruling**

5 At the conclusion of the Disciplinary Hearing, the judges of the Panel will adjourn to
6 a private session to consider the matter. The ruling of the Panel will be made by majority
7 vote of the judges on the Panel. The Presiding Judge will assign to a judge in the majority
8 the task of drafting the Panel's Memorandum of Decision setting forth the majority's decision
9 and its reasons. Any member of the Panel may issue a concurring or dissenting opinion
10 which will be made a part of the Memorandum of Decision.

11 If the Panel imposes discipline on an attorney, the Presiding Judge shall issue a
12 Discipline Order based on the Panel's Memorandum of Decision. That order may provide
13 for any appropriate discipline, including but not limited to revocation or suspension of the right
14 to practice before all the judges of this court. The Discipline Order will become final 14 days
15 after entry or, if a motion for rehearing is filed, 14 days after entry of an order denying the
16 attorney's motion for rehearing. The same rule as to finality will apply to a new or revised
17 Discipline Order, if one is issued by the Panel after rehearing.

18 The Discipline Order shall be sent by the clerk to the Clerk of the District Court.
19 Should the Panel so order, a Discipline Order also may be transmitted by the clerk to the
20 State Bar of California or published in designated periodicals, or both.

21 If an attorney's practice privileges have been revoked, modified, or suspended by final
22 order of a Panel, the attorney may not appear before any of the judges of this court
23 representing any other persons or entities except in compliance with the terms of the
24 Discipline Order.

1 **Reinstatement**

2 An attorney whose privileges have been revoked, modified, or suspended under this
3 general order may apply to the Chief Judge of this court for reinstatement of privileges on the
4 following schedule:

- 5 (A) If privileges were revoked without condition for an unlimited period of
6 time, the attorney may apply for reinstatement after five years from the
7 date the Discipline Order becomes final;
- 8 (B) If privileges were revoked or suspended with specified conditions
9 precedent to reinstatement, the attorney may apply for reinstatement
10 upon fulfillment of the conditions set forth in the Discipline Order; and
- 11 (C) If privileges were suspended for a specified period of time, the attorney
12 may apply for reinstatement at the conclusion of the period of
13 suspension or five years after the Discipline Order becomes final,
14 whichever first occurs.

15 An Application for Reinstatement of Privileges must include a copy of the Discipline
16 Order, proof that all conditions justifying reinstatement have been fulfilled, and proof that the
17 applicant is in good standing before the United States District Court for the Central District
18 of California and is a member in good standing of the State Bar of California. If the attorney's
19 privileges were revoked, or if the suspension was for a time in excess of five years and was
20 without any conditions precedent to reinstatement, it shall be within the sole discretion of the
21 Chief Judge whether to issue a reinstatement order. If the Chief Judge determines that the
22 attorney is entitled to reinstatement of practice privileges, he or she may issue a
23 Reinstatement Order. Upon entry of the Reinstatement Order, the attorney affected thereby
24 shall be deemed eligible to practice before all the judges of this court except to the extent any
25 judge of this court has issued an order, other than under this rule, denying that attorney the
26 right to appear before that judge or to appear in a particular case.

1 Judge accordingly. So long as any disciplinary files remain open, the clerk shall provide the
2 Chief Judge a quarterly status report of all such open files to which will be attached copies
3 of their dockets. The Chief Judge may order any such files closed when he or she deems
4 it appropriate, consistent with the provisions hereof and the status of any such matter.

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6 **Appeals**

7 All orders issued pursuant to this rule shall be appealable to the extent permitted by
8 applicable law and rules of court.

9
10 **IT IS SO ORDERED.**

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14 DATED: 1/5/10



15 **Vincent P. Zurzolo**
16 Chief Judge, United States Bankruptcy Court