

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of ) Case No.: 08-O-11255  
)  
WILLIAM C. SNEED, JR., ) DECISION AND ORDER OF  
) INACTIVE ENROLLMENT  
)  
Member No. 173576 )  
)  
A Member of the State Bar. )

INTRODUCTION

In this matter, respondent William C. Sneed, Jr., was charged with five counts of misconduct in a single client matter. Respondent failed to participate either in-person or through counsel and his default was entered. The State Bar was represented by Deputy Trial Counsel Susan Chan.

The court finds by clear and convincing evidence that respondent is culpable of all of the charged violations. Respondent has been disciplined on three prior occasions since his admission in 1994. This will be his fourth. This disciplinary record and respondent’s culpability and failure to participate in this proceeding indicate that respondent is unable or unwilling to conform his conduct to the ethical strictures of the legal profession. Accordingly the court recommends that respondent be disbarred from the practice of law.

PERTINENT PROCEDURAL HISTORY

The notice of disciplinary charges (NDC) in this case was filed on March 26, 2009, and was properly served on respondent on the same date. Respondent did not file an answer or otherwise participate in the case and his default was entered on June 22, 2009. The matter was

submitted for decision as of July 13, 2009, after the State Bar waived a hearing and submitted a brief on the issues of culpability and discipline.

### **FINDINGS OF FACT**

Pursuant to rule 200(d)(1)(A) of the Rules of Procedure of the State Bar, upon entry of default the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. Accordingly, the court adopts the facts alleged in the NDC as its factual findings. Briefly, those facts show that respondent was admitted to the practice of law in the State of California on December 12, 1994, and has been a member since then.

In March 2006, Barbara Benton hired respondent to file a bankruptcy petition and paid him \$1,189 in advanced fees and costs for the work. In April 2006, respondent filed a bankruptcy petition on Benton's behalf under Chapter 13 of the Bankruptcy Code in the Eastern District of California, case number 06-21240. In May 2006, the bankruptcy Trustee filed a motion to dismiss the case based on respondent's failure to file the statement of financial affairs and the chapter 13 plan. Respondent filed these two documents thereafter.

In June 2006, the Trustee filed objections to the confirmation of the plan as respondent had filed the statement of financial affairs and chapter 13 plan two days before the meeting of creditors, which did not provide the Trustee with sufficient time to review the documents. The Trustee sought an order denying confirmation and dismissing the case if respondent failed to file an amended plan. Shortly thereafter, the Trustee filed an amended objection to the confirmation of the plan as the length of the plan, 293 months, exceeded the maximum time allowed.

In July 2006, respondent filed a first amended chapter 13 plan. In October 2006, the Trustee filed another motion to dismiss the case based on the delay in confirmation of the amended plan. The motion was denied.

In November 2006, the Trustee filed a third motion to dismiss the case based on the delay in confirming a plan. In late November 2006 respondent filed a motion to modify the plan and to confirm the first amended plan. In December 2006, the Trustee filed objections to the motion to confirm the plan as the length of the plan, 153 months, exceeded the maximum time allowed.

In January 2007, the Bankruptcy Court denied respondent's motion to modify the plan without prejudice. In February 2007, the Trustee filed another motion to dismiss based on the failure to confirm a plan since the filing of the case in April 2006. In February 2007, the Bankruptcy Court dismissed case number 06-21240.

In March 2007, respondent notified Benton that her case had been dismissed. In May 2007, respondent told Benton that he had been ill, which caused him to fail to finalize the bankruptcy and led to the dismissal. Respondent also told Benton that he would re-file a chapter 13 petition on her behalf and pay the filing fee himself. In May 2007, respondent filed a second chapter 13 petition, case number 07-23586. In June 2007, the Trustee filed objections to the confirmation of the plan in this case based on five identified deficiencies. The Bankruptcy Court sustained the Trustee's objections and on respondent thereafter filed an amended plan.

Meanwhile, respondent failed to pay his annual State Bar membership fees and was suspended by the California Supreme Court by order filed July 30, 2007 and effective on August 16, 2007. Respondent remained suspended until he paid his fees and was reinstated to active status on September 7, 2007. Respondent did not inform the Bankruptcy Court or Benton of his suspension.

On August 13, 2007, the Trustee filed a motion to dismiss case number 07-23586, as the proposed plan was not the debtor's best effort. On August 16, 2007, while he was suspended, respondent filed a motion to modify and confirm the plan. In September 2007, the Bankruptcy Court issued a conditional order requiring respondent to obtain plan confirmation by November

13, 2007, or the case would be dismissed. On November 13, 2007, respondent filed an amended plan. On November 19, 2007, the Bankruptcy Court dismissed case number 07-23586.

In November 2007, Benton received notice from the Bankruptcy Court that her case had been dismissed. Between November 2007 and January 2008, Benton telephoned respondent on numerous occasions asking for a status update and inquiring as to why her case had been dismissed. Respondent received these messages but did not reply or provide the requested status update in any way.

In late January 2008, the State Bar opened an investigation into the Benton case. In April and May 2008 a State Bar investigator wrote to respondent regarding the matter. The letters requested that respondent respond in writing to the allegations of misconduct being investigated by the State Bar in the Benton case. Respondent did not respond to the letters or otherwise communicate with the investigator.

### **CONCLUSIONS OF LAW**

In Count One (A) of the NDC, the State Bar charged that respondent violated rule 3-110(A) of the Rules of Professional Conduct.<sup>1</sup> This rule provides that a member shall not intentionally, recklessly, or repeatedly fail to perform legal services competently. The court concludes that respondent willfully violated this rule by recklessly and repeatedly failing to obtain confirmation of the plans in the two bankruptcy cases, which resulted in the dismissal of both cases.

In Count One (B) of the NDC, the State Bar charged that respondent violated Business and Professions Code section 6068 subdivision (m).<sup>2</sup> This statute provides that it is the duty of a member to respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in the client's case. The court concludes that

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<sup>1</sup> All further references to rules are to these Rules unless otherwise noted.

<sup>2</sup> All further references to sections are to this Code unless otherwise noted.

respondent willfully violated this statute by failing to respond to Benton's numerous requests for a status updates between November 2007 and January 2008, and by failing to advise Benton that he had been suspended from the practice of law.

In Count One (C), the State Bar charged that respondent violated section 6068, subdivision (a). This statute provides that it is the duty of a member to support the laws of this state. Sections 6125 and 6126 provide that only active members of the State Bar may practice law and that any person who holds himself or herself out as entitled to practice law or practices law who is not an active member of the State Bar is guilty of a misdemeanor. The court concludes that by filing the August 16, 2007 motion to modify and confirm the plan in case number 07-23586, respondent held himself out as entitled to practice law and practiced law in violation of sections 6125 and 6126 and thereby willfully failed to support the laws of this state in violation of section 6068 subdivision (a).

In Count One (D), the State Bar charged that respondent committed an act of moral turpitude and dishonesty in violation of section 6106. This statute provides that an attorney's commission of an act involving moral turpitude, dishonesty or corruption is grounds for suspension or disbarment. The court concludes that respondent willfully violated this statute by concealing his suspension from the Bankruptcy Court when he filed the August 16, 2007 motion to modify plan in case number 07-23586.

In Count One (E), the State Bar charged that respondent violated section 6068 subdivision (i). This statute provides that it is the duty of a member to cooperate in any disciplinary investigation or proceeding. The court concludes that respondent willfully violated this statute by not providing a written response to the investigator's two letters or otherwise cooperating in the investigation of the Benton matter.

## MITIGATING AND AGGRAVATING CIRCUMSTANCES

No mitigating circumstances have been presented. In aggravation, respondent has been disciplined on three prior occasions. By Supreme Court order filed June 28, 2005 (S132898), respondent was suspended from the practice of law for one year, execution of which was stayed, and he was placed on probation for two years on conditions, including 30 days actual suspension. Respondent represented an elderly couple in a civil libel case and he stipulated that he failed to communicate with his clients (§ 6068, subd. (m)), failed to return their papers after his employment was terminated (rule 3-700(D)(1)), failed to promptly refund an unearned advanced fee (rule 3-700(D)(2)), and failed to cooperate with the State Bar in the disciplinary investigation (§ 6068, subd. (i)). The misconduct occurred between 2002 and 2004. In aggravation, respondent had been discipline on 2 prior occasions; his clients suffered harm; and the misconduct evidenced multiple acts of wrongdoing. In mitigation, the parties stipulated that respondent was remorseful.

By order filed September 3, 2004 (S125500), respondent was suspended from the practice of law for one year, execution of which was stayed, and he was placed on probation for two years on conditions. Respondent stipulated that in a marriage dissolution matter, he failed to perform legal services competently (rule 3-110(A)), failed to communicate with his client (§ 6068, subd. (m)), failed to take steps to avoid foreseeable prejudice to his client after he withdrew from representing the client (rule 3-700(A)(2)), failed to report to the State Bar that he had been sanctioned for \$3,000 by the superior court (§ 6068, subd. (o)(3)), failed to comply with the court order to pay the sanctions (§ 6103)), and failed to cooperate with the State Bar in the disciplinary investigation (§ 6068, subd. (i)). In another matter, respondent stipulated that by committing the misconduct in the marriage dissolution case he violated the condition attached to his prior private reproof (rule 1-110) that required respondent to comply with the Rules of

Professional Conduct and Business and Professions Code. The misconduct in this matter occurred between 2001 and 2004. In aggravation, respondent had a record of prior discipline; his clients were harmed by his misconduct; he demonstrated indifference toward the consequences of his misconduct; and the misconduct evidenced multiple acts of wrongdoing. In mitigation, the parties stipulated that respondent suffered extreme physical disabilities during the time period of the misconduct.

On March 5, 2001, respondent was privately reproved (00-O-10964). Respondent stipulated that in a marriage dissolution matter he failed to perform legal services competently (rule 3-110(A)), failed to communicate with his client (§ 6068, subd. (m)), and failed to cooperate with the State Bar in the disciplinary investigation (§ 6068, subd. (i)). The misconduct occurred in 1999. No aggravating circumstances were present. In mitigation, the parties stipulated that no harm occurred to the client and that respondent was candid and cooperative.

### **DISCIPLINE**

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, the court looks first for guidance to the Standards for Attorney Sanctions for Professional Misconduct (Rules Proc. of State Bar, tit. IV; hereafter Standards). The Supreme Court gives the Standards “great weight” and will reject a recommendation consistent with the Standards only where the court entertains “grave doubts” as to its propriety. (*In re Silvertown* (2005) 36 Cal.4th 81, 91-92.) Although the Standards are guidelines, they should be followed absent a compelling reason to depart from them. (*Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

Standard 1.7(b) provides “If a member is found culpable of professional misconduct in any proceeding which discipline may be imposed and the member has a record of two prior impositions of discipline as defined by Standard 1.2(f), the degree of discipline in the current proceeding shall be disbarment unless the most compelling mitigating circumstances clearly predominate.” This will be respondent’s fourth imposition of discipline and no compelling mitigating circumstances are present.

In the present case, respondent has been found culpable of failing to perform competently, failing to communicate with his client and failing to cooperate in the disciplinary investigation. This is substantially the same misconduct that occurred in respondent’s three prior discipline cases. In addition, respondent practiced law while suspended and concealed that fact from the court and his client.

Viewed individually, each of respondent’s disciplinary matters, including the present, do not warrant disbarment. However, viewed collectively, the disciplinary record shows that respondent is simply unwilling or unable to comply with his professional obligations.

Respondent was admitted to the practice of law in 1994. Since 1999, he has either been committing misconduct or involved in the disciplinary process. This time period represents 10 of respondent’s approximately 15 years of practice. Respondent committed the misconduct in his first discipline case in 1999. That discipline case began in 2000 and culminated with a private reproof in 2001. As part of that discipline respondent was required to comply with conditions attached to that reproof for two years, from 2001 to 2003. The misconduct in respondent’s second and third discipline cases occurred for the most part while he was under State Bar scrutiny from his first discipline case. Respondent’s third discipline case resulted in a two year period of probation, from 2005 to 2007. The misconduct in the present case occurred in

2006 and 2007, while he was on probation from his third discipline case. The current disciplinary matter began in 2008.

Respondent has been given ample opportunity to reform his conduct and has failed or refused to do so. "Each of [the prior] disciplinary orders provided him an opportunity to reform his conduct to the ethical strictures of the profession. His culpability [here] sadly indicates either his unwillingness or inability to do so." (*Arden v. State Bar* (1987) 43 Cal.3d 713, 728.) The court recognizes that the misconduct in respondent's second and third discipline cases occurred for the most part during the same time period. Nevertheless, respondent has had ample opportunity to reform his conduct and has not done so.

Respondent's past and present misconduct causes concern that he does not understand his ethical obligations, which in turn causes concern that he will commit future misconduct. In addition, his failure to participate in this case shows that he does not appreciate the seriousness of the charges or comprehend the importance of participating in the disciplinary proceedings. (*Conroy v. State Bar* (1990) 51 Cal.3d 799, 805) These factors indicate that the risk of respondent committing future misconduct is high.

As noted by the Supreme Court, "the principal purpose of disciplinary proceedings and the imposition of sanctions is to protect the public by ensuring to the extent possible that misconduct by an attorney will not recur." (*Sternlieb v. State Bar* (1990) 52 Cal.3d 317, 331.) Probation and suspension have proven inadequate in the past to ensure that respondent's misconduct will not recur, and the record before the court does not give assurance that such a sanction in this case will ensure that future misconduct will not occur. In short, a sanction short of disbarment will not achieve the purposes of disciplinary sanctions. Accordingly, disbarment is appropriate to protect the public, courts, and legal profession.

### **RECOMMENDATION**

It is recommended that respondent William C. Sneed, Jr., be disbarred from the practice of law in the State of California and that his name be stricken from the rolls of attorneys.

The court further recommends that respondent be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in this matter.

Finally, the court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

### **ORDER OF INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that William C. Sneed, Jr., State Bar number 173576, be involuntary enrolled as an inactive member of the State Bar of California effective three calendar days after the service of this decision and order. (Rule 220(c), Rules Proc. of State Bar.)

Dated: October \_\_\_\_\_, 2009

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PAT E. McELROY  
Judge of the State Bar Court