

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - LOS ANGELES

In the Matter of ) Case No.: 13-O-16053-DFM  
)  
WILLIAM ARTHUR SKOOG, JR., )  
)  
Member No. 113978, ) DECISION  
)  
)  
A Member of the State Bar. )

**Introduction**<sup>1</sup>

In this contested disciplinary proceeding, Respondent William Arthur Skoog, Jr., is charged with violating his probation conditions imposed by the California Supreme Court. This court finds by clear and convincing evidence that Respondent is culpable of the alleged misconduct. Based on the nature and extent of culpability, as well as his mitigating and aggravating factors, this court recommends, among other things, that Respondent be suspended from the practice of law for two years, stayed, with two years' probation, and 90 days' actual suspension.

**Significant Procedural History**

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

The Office of the Chief Trial Counsel of the State Bar of California (State Bar) initiated this proceeding by filing a notice of disciplinary charges (NDC) on April 4, 2014. On April 25, 2014, Respondent filed a response to the NDC.

On June 23, 2014, the parties filed a joint pretrial statement and a stipulation as to facts.

A trial was held on July 11, 2014. The State Bar was represented by Deputy Trial Counsel R. Kevin Bucher. Respondent represented himself. On July 11, 2014, the court took this matter under submission.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on June 14, 1984, and has been a member of the State Bar of California at all times since that date.

#### **Facts**

On March 18, 2011, the California Supreme Court ordered, among other things, in Supreme Court case No. S189564, that:

1. Respondent be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for two years, as recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed November 15, 2010 (State Bar Court case No. 09-H-15877); and
2. Respondent comply, among other things, with the following probation conditions:
  - A. Respondent was required to contact the Office of Probation to schedule a meeting by May 17, 2011.
  - B. During the period of probation, Respondent was required to submit a written report to the Office of Probation on January 10, April 10, July 10 and October 10 of each year, or part thereof, during which the probation is in effect, stating under

penalty of perjury that he has complied with provisions of the State Bar Act and Rules of Professional Conduct during said period (quarterly report). In addition to all quarterly reports, a final report, containing the same information, was 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.

The Supreme Court order became effective on April 17, 2011, 30 days after it was entered. (Cal. Rules of Court, rule 9.18(a).) It was properly served on Respondent.<sup>2</sup>

Respondent stipulated and the court finds that:

1. Respondent failed to comply with the conditions attached to a disciplinary probation in Supreme Court case No. S189564 (State Bar case No. 09-H-15877).
2. The probation violations included failure to schedule an initial meeting with the Office of Probation and failure to timely file any of his quarterly reports.
3. Respondent was sent a letter from the Office of Probation on April 27, 2011, reminding him of his obligations under the terms of his probation, the first of which was to schedule a meeting within 30 days. Respondent did not call the Office of Probation to attempt to schedule his initial meeting until June. Respondent and the probation officer exchanged telephone messages, and the initial meeting was held by telephone, four months late, on September 7, 2011.
4. Respondent submitted his quarterly report, due July 10, 2011, late on July 11, 2011.

He then submitted his October 10, 2011, January 10, 2012, and April 10, 2012

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<sup>2</sup>Although no proof was offered that the Clerk of the Supreme Court served the Supreme Court's order upon Respondent, California Rules of Court, rule 8.532(a) requires clerks of reviewing courts to immediately transmit a copy of all decisions of those courts to the parties upon filing. It is presumed pursuant to Evidence Code section 664 that official duties have been regularly performed. (*In re Linda D.* (1970) 3 Cal.App.3d 567, 571.) Therefore, in the absence of evidence to the contrary, this court finds that the Clerk of the Supreme Court performed his duty and transmitted a copy of the Supreme Court's order to Respondent immediately after its filing.

quarterly reports all at the same time for filing on July 12, 2012. He did not submit his report due July 10, 2012, until July 26, 2012, and it was defective as it did not state whether he was in compliance with the provisions of the State Bar Act and Rules of Professional Conduct.

5. Respondent submitted his quarterly reports, due July 10, 2012, October 10, 2012, January 10, 2013, and April 10, 2013, as well as a final report due April 17, 2013, all at the same time for filing on May 30, 2013. All of the reports were defective as they contained photocopied signatures. On July 31, 2013, Respondent was advised by his probation officer that his reports were not in compliance. Respondent said he would resubmit the reports. All missing reports were ultimately submitted on October 18, 2013.

### **Conclusions**

Business and Professions Code section 6068, subdivision (k), provides that an attorney has a duty to comply with all conditions attached to any disciplinary probation.

The court finds that there is clear and convincing evidence that Respondent failed to comply with the terms of his probation, in willful violation of section 6068, subdivision (k), as ordered by the Supreme Court in S189564, by failing to timely meet with his assigned probation deputy; by failing to timely file eight quarterly reports (July 10 and October 10, 2011; January 10, April 10, July 10, and October 10, 2012; and January 10 and April 10, 2013); and by failing to timely file a final report by April 17, 2013.

### **Aggravation<sup>3</sup>**

#### **Prior Record of Discipline (Std. 1.5(a).)**

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<sup>3</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

Respondent has a record of two prior disciplinary actions.

*First Disciplinary Action*

On October 30, 2008, the State Bar Court Hearing Department issued an order of private reproof against Respondent for his violations of sections 6103 and 6068, subdivision (j). Respondent failed to pay \$900 in court sanctions to the opposing party because of his failure to attend a hearing in late 2006 or early 2007 – a failure attributed to Respondent's financial problems. Mitigation included no prior record of discipline in 22 years of practice, severe financial stress, and family problems. (State Bar Court case No. 07-O-11343, effective November 20, 2008.)<sup>4</sup>

*Second Disciplinary Action*

On April 17, 2011, pursuant to Supreme Court case No. S189564, Respondent was suspended from the practice of law for one year, stayed, and placed on probation for two years. Respondent stipulated to failing to comply with his reproof conditions, including (1) failing to contact and schedule a meeting with the Office of Probation; (2) failing to timely submit four quarterly reports; and (3) failing to timely submit his final report. (State Bar Court case No. 09-H-15877.)

Respondent's current misconduct is similar to the misconduct involved in this prior disciplinary matter – failure to comply with conditions.

However, of particular importance to the court is the fact that there has never been a client complaint against Respondent since he was admitted in 1984 (the first discipline resulted from Respondent's failure to pay \$900 in court sanctions). The only problems he has had since

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<sup>4</sup> Evidence of Respondent's prior record was not authenticated or complete. (Rules Proc. of State Bar, rule 5.106.) Thus, the court takes judicial notice of the stipulation filed October 30, 2008, case No. 07-O-11343.

January 2007 have been with complying with the conditions of his probation and reproof in his disciplinary matters.

**Multiple Acts (Std. 1.5(b).)**

Respondent committed multiple acts of wrongdoing, including failing to timely schedule a meeting with the Office of Probation, failing to timely file his quarterly reports, and failing to file proper quarterly reports.

**Mitigation**

**Extreme Emotional/Physical/Mental Difficulties (Std. 1.6(d).)**

Respondent attributes his past failures to comply with his probation conditions to the overwhelming turmoil in his life during that time. The major source of problems was the emotional problems of his two teenage sons. Respondent is a single parent, and the two boys have had significant emotional problems, requiring much medical and mental health treatment. Respondent's devotion to his two sons, and the significant distraction they have been in his life, was described by Respondent, the therapist for the two boys and Respondent, and by several other family friends. This therapist also opined that Respondent had suffered from major depressive disorder during the past. He also testified that the boys have made significant forward progress in the last year and that Respondent no longer suffers from his depressive disorder.

In addition to caring for the two troubled sons, Respondent is also taking care of his two elderly parents.

Another major source of stress for Respondent is his former alcoholism. He is currently more than three years sober, but participates very aggressively in Alcoholics Anonymous (AA) group sessions. He has a sponsor and is a sponsor (for two individuals).

A third major source of stress and “distraction” for Respondent was his heavy work schedule. He works as a contract attorney for a personal injury law firm and routinely works 50-70 hours per week, including trying cases.

Respondent's personal and family difficulties are a significant mitigating factor.

**Candor/Cooperation to Victims/State Bar (Std. 1.6(e).)**

Respondent is entitled to significant cooperation credit. He stipulated to culpability and to all of the facts and exhibits underlying the State Bar’s case. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179 [extensive mitigating weight is accorded to an attorney who, where appropriate, willingly admit his culpability as well as the facts].)

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

Respondent is entitled to some mitigation credit for his character evidence. He presented declarations and testimony from various individuals, including a superior court judge (now retired), two insurance agents, a local businessman, a nurse, his therapist, and a medical doctor regarding his good character. The weight of that evidence is reduced, however, by the lack of demonstrated knowledge of those people regarding the complete history of Respondent’s past disciplinary problems.

**Remorse/Recognition of Wrongdoing (Std. 1.6(g).)**

Respondent expressed genuine remorse regarding his inattention to the conditions of probation and a real commitment to complying with them in the future. He ultimately complied with the various requirements – he was just always late in doing so. Thus, Respondent's belated compliance is a mitigating factor. (*In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 150 [belated compliance with a probation condition may be considered as a mitigating factor in determining discipline].)

**Community Service/Pro Bono Work**

Community service and pro bono work are mitigating circumstances recognized by case law. (*Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 [community service and pro bono activities are mitigating factors that may be entitled to considerable weight].)

Respondent has done extensive community service, primarily in the area of alcohol recovery efforts of others. He works extensively on behalf of AA and, when he still lived in San Diego, worked to found The Other Bar there.

Respondent's own testimony regarding his community service may be considered as some evidence in mitigation notwithstanding that it does not meet the requirement that good character be established by a wide range of references. (See *In the Matter of Crane and DePew* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 139, 158.)

### **Discussion**

The purpose of State Bar disciplinary proceedings is not to punish the attorney but to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1095, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) 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; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

Standard 1.8(b) provides that, unless the most compelling mitigating circumstances clearly predominate or the prior misconduct occurred in the same time period as the current misconduct, if an attorney has two or more prior records of discipline, disbarment is appropriate if: (1) an actual suspension was ordered in one of the prior matters; (2) the prior and current matters together demonstrate a pattern of misconduct; or, (3) the prior disciplinary matters coupled with the current record demonstrate the member's unwillingness or inability to conform to ethical responsibilities.

Standard 2.10 provides that an actual suspension is appropriate for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the condition violated and Respondent's unwillingness or inability to comply with disciplinary orders.

The State Bar urges Respondent be disbarred, in light of his two prior records of discipline under standard 1.8(b).

Respondent argues that a one year's stayed suspension and two years' probation would be sufficient.

The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violation and Respondent's recognition of his misconduct and his efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.)

The court finds guidance in *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697 and in *Conroy v. State Bar* (1990) 51 Cal.3d 799.

In *Meyer*, the attorney, who had two prior records of discipline, was actually suspended for 90 days for failing to comply with the conditions attached to his private reproof in his second prior record of discipline. He had failed to file quarterly reports and complete continuing legal education courses. In his first discipline, he had been privately reproofed for failing to

communicate with a client, improperly withdrawing from employment, and failing to return client file in one client matter. In his second discipline, he was privately reprovved for not complying with the conditions attached to his first reprovval (not filing or timely filing his probation report and untimely taking and completing the State Bar's Ethics School). In that second proceeding, his failures to comply had been concluded by the court to be mitigated by his extreme emotional difficulties and depression at that time. In his third disciplinary matter, because the case was decided after Meyer's default had been entered for failure to appear at trial, no mitigating factors were found. Instead, there was much evidence in aggravation, including the two prior records, multiple acts of wrongdoing, indifference towards rectification (Meyer had still not complied with the subject conditions at the time of trial), and Meyer's failure to appear for the trial. Nevertheless, the Review Department found that the nature and extent of his two prior records of discipline were not sufficiently severe to justify disbarment and that a 90 days' actual suspension was warranted, in light of the discipline in *Conroy v. State Bar* (1990) 51 Cal.3d 799.

In *Conroy*, the attorney, who defaulted at the disciplinary hearing, was actually suspended for 60 days for violating his probation condition attached to a private reprovval. He belatedly complied with his condition three months after the deadline and took and passed the Professional Responsibility Examination.

Here, as in *Meyer*, this is the second disciplinary proceeding initiated against Respondent for his inability to timely comply with his probation conditions. The gravamen of his misconduct is not his unwillingness to comply with the disciplinary order but his lack of timeliness in doing so. Like *Conroy*, and unlike *Meyer*, Respondent has belatedly complied with the conditions.

In light of the discussion and discipline in *Meyer* (90 days' actual suspension) and *Conroy* (60 days' actual suspension), the State Bar's recommendation of disbarment would be manifestly unjust. At the same time, Respondent's argument for no actual suspension is inadequate. Instead, Respondent's sanction must be greater than the previously imposed sanction of one year's stayed suspension in his prior record. Therefore, based on Respondent's misconduct, the case law, standard 2.10, the aggravating evidence of two prior records of discipline, and the compelling mitigating factors of enormous emotional and personal difficulties, extensive cooperation with the State Bar, remorse, community work, and good character, the court concludes that a departure from the standards is justified and that, placing Respondent on an actual suspension for 90 days would be appropriate to protect the public and to preserve public confidence in the profession.

### **Recommendations**

It is recommended that Respondent William Arthur Skoog, Jr., State Bar Number 113978, be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that Respondent be placed on probation<sup>5</sup> for a period of two years subject to the following conditions:

1. Respondent is suspended from the practice of law for the first 90 days of probation.
2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of Respondent's probation.
3. Within 30 days after the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

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<sup>5</sup> The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

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 Respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, Respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
5. During the probation period, Respondent must report in writing quarterly to the Office of Probation. The reports must be postmarked no later than each January 10, April 10, July 10, and October 10 of the probation period. Under penalty of perjury, Respondent must state in each report whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of Respondent's probation conditions during the preceding calendar quarter or applicable reporting period. If the first report would cover less than 30 days, no report is required at that time; however, the following report must cover the period of time from the commencement of probation to the end of that next quarter. In addition to all quarterly reports, a final report must be postmarked no earlier than 10 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, Respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to Respondent personally or in writing, relating to whether Respondent is complying or has complied with Respondent's probation conditions.
7. Within one year after the effective date of the discipline herein, Respondent 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 Respondent will not receive MCLE credit for attending Ethics School.<sup>6</sup> (Rules Proc. of State Bar, rule 3201.)
8. At the expiration of the probation period, if Respondent has complied with all conditions of probation, Respondent will be relieved of the stayed suspension.

### **Multistate Professional Responsibility Exam**

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because he had successfully completed the MPRE in December 2013 in connection with his previous discipline. (*In the Matter of Trousil*

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<sup>6</sup> Rule 5.135 of the Rules of Procedure of the State Bar provides that an attorney must satisfactorily complete the State Bar's Ethics School unless the attorney has completed the course within the prior two years. Presentation by Respondent of proof of his passage of this school during the two years prior to the imposition of discipline in this case will be deemed to satisfy this condition.

(Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229.)

**California Rules of Court, Rule 9.20**

It is recommended that Respondent 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.

**Costs**

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: October \_\_\_\_\_, 2014

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DONALD F. MILES  
Judge of the State Bar Court