

PUBLIC MATTER



FILED

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P.B.

STATE BAR COURT
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LOS ANGELES

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No.: 14-O-04588-WKM
)	
STEVEN EARL SMITH, JR.,)	DECISION
)	
Member No. 140031,)	
)	
<u>A Member of the State Bar.</u>)	

Introduction

In this contested, original disciplinary proceeding, the State Bar's Office of the Chief Trial Counsel (OCTC) charges respondent STEVEN EARL SMITH, JR., with willfully violating his duty, under Business and Professions Code¹ section 6068, subdivision (k), "[t]o comply with all conditions attached to any disciplinary probation...." Specifically, OCTC charges respondent with violating two of the conditions of the two-year disciplinary probation that the Supreme Court imposed on him in its May 16, 2012, order in *In re Steven Earl Smith, Jr., on Discipline*, case number S198345 (State Bar Court case numbers 09-O-19233; 09-O-19348, and 10-J-02206 (consolidated)) (*Smith I*).

The court finds, by clear and convincing evidence, that respondent is culpable of most, but not all of the charged misconduct. For the reasons set forth below, the court will recommend that respondent be placed on three years' stayed suspension and three years' probation with

¹ Unless otherwise indicated, all further statutory references are to the Business and Professions Code.

conditions, including a two-year suspension that will continue until respondent establishes his rehabilitation, fitness to practice, and learning in the law in accordance with standard 1.2(c)(i) of the Standards for Attorney Sanctions for Professional Misconduct.²

Significant Procedural History

On January 27, 2015, OCTC filed and properly served the notice of disciplinary charges (NDC) in this case on respondent. On March 10, 2015, respondent filed his response to the NDC.

On May 18, 2015, the parties filed a partial stipulation as to facts and admission of documents. A one-day trial was held in this case on August 6, 2015. At the conclusion of that trial, the court granted the parties leave until 5:00 p.m. on August 21, 2015, to file posttrial briefs.

Respondent failed to timely file a posttrial brief.³ OCTC timely filed its posttrial brief on August 21, 2015. Thereafter, the court took the case under submission for decision on August 21, 2015.

On October 9, 2015, respondent filed a motion, under Rules of Procedure of the State Bar, rule 5.113, to reopen the record to present additional good character evidence by way of

² The standards are found in title IV of the Rules of Procedure of the State Bar. All further references to standards are to this source.

³ Respondent filed his posttrial brief, which he inartfully titled "Trial Brief," 12 days late on September 2, 2015. Respondent's posttrial brief was not accompanied by a motion to permit late filing. Accordingly, the court has not considered respondent's posttrial brief and sua sponte orders that it is STRICKEN from the record. (State Bar Ct. Rules of Prac., rule 1112(b) ["[T]he fact that a pleading is accepted for filing does not mean that it does not contain some other defect that may be raised by an opposing party or the Court. *Lack of timeliness...* and other defects in pleadings should be raised by the parties. Such defect(s) may result in denial of the motion or other relief sought or *in striking the pleading, whether or not the defect is raised by the opposing party.*" (Italics added.)].)

declarations from three individuals.⁴ Even though OCTC failed to oppose or otherwise respond to respondent's motion to reopen the record, the court orders that respondent's October 9, 2015, motion to reopen the record is DENIED because respondent failed to establish that any of the three declarations qualify as newly discovered evidence (i.e., evidence that was not known at the time of trial, which could not have been discovered and produced at trial with reasonable diligence).⁵ Because respondent's failure to establish that the declarations were newly discovered evidence is dispositive of respondent's motion, the court need not and does not address respondent's remaining contentions (1) that the declarations are the best evidence and not cumulative and (2) that the admission of the declarations into evidence would probably lead to a different result.

OCTC was represented at trial by Deputy Trial Counsel R. Kevin Bucher. Respondent represented himself at trial.

Findings of Fact and Conclusions of Law

The following findings of fact are based on respondent's response to the NDC; the parties' May 18, 2015, partial stipulation as to facts and admission of documents; and the documentary and testimonial evidence admitted at trial.

Jurisdiction

Respondent was admitted to the practice of law in the State of California on June 6, 1989. Respondent has been a member of the State Bar of California since that date.

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⁴ Respondent inartfully titled his motion to reopen the record as a motion to augment the trial record.

⁵ As noted *ante*, OCTC served the NDC in this proceeding on respondent on January 27, 2015. Respondent's statement/admission that he did not send the declarations out to his witnesses for their signatures until July 10, 2015, which was almost six months after respondent was served with the NDC, establishes that respondent was not diligent in preparing for trial and in obtaining declarations that have the original signatures of the declarants.

Case Number 14-O-04588 – Violations of Duty to Comply With Probation Conditions

Facts

In the Supreme Court's May 16, 2012, order in *Smith I*, the Supreme Court placed respondent on one year's stayed suspension and two years' probation on conditions, including a 90-day suspension. The Supreme Court imposed that discipline, including each one of the conditions of probation, on respondent in accordance with a stipulation regarding facts, conclusions of law, and disposition that respondent entered into with OCTC and that the State Bar Court approved in an order filed on October 5, 2011, in case numbers 09-O-19233, 09-O-19348, and 10-J-02206, consolidated (*Smith I* stipulation).

The Supreme Court's May 16, 2012, order in *Smith I* became effective on June 15, 2012. (Cal. Rules of Court, rule 9.18(a).) Accordingly, respondent's two-year disciplinary probation in *Smith I* began on June 15, 2012, and ended on June 15, 2014. As set forth in more detail *post*, respondent admits that he failed to comply with both the restitution condition and the quarterly-reporting condition of his two-year disciplinary probation in *Smith I*.

Restitution Condition

As a condition of respondent's two-year probation in *Smith I*, respondent was required to pay restitution to Maria Meza for \$2,000 in unearned advanced fees together with 10 percent interest thereon per annum from September 21, 2010, until paid. Moreover, if the Client Security Fund (CSF) paid any portion of the \$2,000 to Meza, respondent was required to reimburse CSF for that sum and to pay CSF applicable interest and costs. (See § 6140.5, subd. (c).) Respondent was required to pay the restitution and to provide satisfactory proof of payment to the State Bar's Office of Probation (Probation Office) in Los Angeles no later than May 16, 2014.

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Respondent admits that, as of May 16, 2014, the deadline in the *Smith I* stipulation for paying restitution with interest to Meza, he had, in fact, not paid any restitution to Meza.

Respondent also admits that he did not reimburse CSF by the deadline, even though CSF had reimbursed Meza for the \$2,000 in unearned fees that respondent failed to refund to her (CSF did not pay Meza the more than \$500 in interest that respondent owed her on the \$2,000). In April 2015, respondent finally paid Meza the interest he owed her on the \$2,000. Respondent also reimbursed CSF for the \$2,000 it paid Meza, and also paid CSF the applicable interest and costs as required by section 6140.5, subdivision (c).

Reporting Condition

As a condition of respondent's two-year probation in *Smith I*, respondent was also required to submit written reports to the Probation Office on each January 10, April 10, July 10, and October 10, stating under penalty of perjury whether he had complied with the State Bar Act, the State Bar Rules of Professional Conduct, and all the conditions of his two-year probation in *Smith I* during the preceding calendar quarter. Respondent was also required to submit a final probation report containing the same information during the last 20 days of his probation.

Respondent admits that he was late in submitting three probation reports. The report due on October 10, 2013, was submitted five days late on October 15, 2013. Respondent mailed it to the Probation Office on October 7, 2013, from Henderson, Nevada, where he was residing at the time.

The report due on January 10, 2014, was submitted 18 days late on January 28, 2014. However, that report was submitted late because the Probation Office failed to timely notify respondent that, effective January 6, 2014, the Los Angeles offices of the State Bar of California, including the Office of Probation, moved from 1149 South Hill Street to 845 South Figueroa

Street. The Probation Office did not formally notify respondent that it had moved to South Figueroa Street until February 13, 2014, which was almost 6 weeks after it moved.

Respondent mailed his report due January 10, 2014, to the Probation Office before its due date. But he mailed it to the Probation Office at its old 1149 South Hill Street address, and the Probation Office did not receive it. When the Probation Office notified respondent that his January 2014 report had not been received, respondent mailed another report to the Probation Office at its current address at 845 South Figueroa Street on January 21, 2014.

Finally, respondent's final probation report was submitted late. The final report was to be submitted no later than June 15, 2014. The Probation Office received respondent's final report 11 days late on June 26, 2014. Respondent asserts that he mailed his final report on June 23, 2014, because he believed he could not complete the report until after the reporting period ended, which was the date it was due.

Conclusions of Law

Count One – § 6068, subd. (k) (Failure to Comply with Probation Conditions)

Section 6068, subdivision (k), provides that an attorney has a duty to comply with all conditions attached to any disciplinary probation. The record clearly establishes that respondent willfully violated his duty, under section 6068, subdivision (k), to comply with the conditions of his two-year probation in *Smith I* on at least four occasions.

First, respondent violated section 6068, subdivision (k) when he failed to pay Meza, no later than May 16, 2014, the more than \$500 in interest he owed her on the \$2,000 from September 21, 2010, until the date on which CSF paid her \$2,000. Second, he violated section 6068, subdivision (k) when he failed to reimburse CSF, no later than May 16, 2014, for the \$2,000 it paid Meza with applicable interest and costs. Respondent's claim that he was

financially unable to pay any restitution until his sister loaned or gave him the money to do so in April 2015 is, at best, misguided.

Even assuming *arguendo* that respondent actually lacked the financial ability to make any restitution payments whatsoever, he is not being disciplined for violating a probation condition for which he lacked the ability to comply until April 2015. Instead, he is being disciplined for not complying with the restitution condition without first attempting to be relieved from the condition based on his inability to pay. (*In the Matter of Respondent Y* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 868, fn. 4.)

Third, respondent violated section 6068, subdivision (k) when he failed to timely submit his quarterly probation report that was due on October 10, 2013. The fact he mailed the report before October 10, 2103 is irrelevant; respondent's reporting condition required that respondent submit the probation report no later than October 10, 2013, and he failed to comply.

Fourth, respondent violated section 6068, subdivision (k) when he failed to submit his final probation report no later than June 15, 2014. Respondent's contention that he could only submit the final report after the end of the probation period is without merit when one reads the probation condition regarding submission of the final report. That condition plainly requires that the final report be submitted within the last 20 days of probation; thus, it was due no later than the last day of the probation period (i.e., June 15, 2014).

The court does not find respondent culpable of willfully violating section 6068, subdivision (k) with respect to his probation report that was due on January 10, 2014, because of the unusual situation of the Probation Office relocating its office four days before the report was due.

Aggravation

OCTC is required to prove each aggravating circumstance by clear and convincing evidence (std. 1.5). OCTC has established two factors in aggravation.

Prior Records of Discipline (Std. 1.5(a).)

Respondent has two prior records of discipline.

Smith I

Respondent's first prior record of discipline is the Supreme Court's May 16, 2012, order in *Smith I*. As noted *ante*, in that order, the Supreme Court placed respondent on one year's stayed suspension and two years' probation on conditions, including a 90-day suspension in accordance with the *Smith I* stipulation.

In February 2010, the United States Bankruptcy Court for the Central District of California filed a disciplinary order suspending respondent from practicing before it for two years with the ability to apply for reinstatement after 90 days of suspension. That discipline was imposed on respondent because he effectively abandoned his bankruptcy practice to his nonattorney employees from about April 2009 through about May 15, 2009. Even though respondent's law office accepted more than 500 new bankruptcy cases during that time period, respondent failed to supervise his staff. (In comparison, respondent's law office had handled a total of about 45 bankruptcy cases during the preceding seven or eight-year period.)

Specifically, the bankruptcy court found that, in each of 18 unrelated bankruptcy cases (4 chapter 11 cases and 14 chapter 13 cases), respondent (1) failed to competently perform legal services and lacked adequate experience and was incompetent to handle the chapter 11 cases he

filed for some of his clients (Rules Prof. Conduct, rule 3-110(A))⁶; (2) failed to adequately communicate (rule 3-500); and (3) failed to keep adequate financial records of the client funds he received, held, and disbursed (rule 4-100). In total, respondent was found culpable in 18 different bankruptcy client matters of 54 (18 times 3) separate rule violations. In addition, the bankruptcy court found that respondent aided and abetted one of his nonattorney employees to engage in the unauthorized practice of law (UPL) (rule 1-300).

Furthermore, in *Smith I*, respondent stipulated to failing to refund earned fees (rule 3-700(D)(2)) in two separate client matters. In mitigation, respondent had no prior record of discipline in 20 years; respondent cooperated with OCTC by stipulating to his culpability, and respondent expressed remorse and acknowledged his wrongdoing. No aggravating circumstances were found in *Smith I*.

Smith II

Respondent's second prior record of discipline is the Supreme Court's September 16, 2014, order in *In re Steven Earl Smith, Jr., on Discipline*, case number S219625 (State Bar Court case numbers 12-O-14894 and 13-O-13964, consolidated) (*Smith II*) in which the Supreme Court placed respondent on two years' stayed suspension and two years' probation on conditions, including a six-month suspension. The Supreme Court imposed that discipline, including the conditions of probation, on respondent in accordance with a stipulation regarding facts, conclusions of law, and disposition that respondent entered into with OCTC and that the State Bar Court approved in an order filed on May 1, 2014, in case numbers 12-O-14894 and 13-O-13964, consolidated (*Smith II* stipulation).

In the *Smith II* stipulation, respondent stipulated to culpability on two counts of misconduct. First, respondent stipulated to willfully violating California Rules of Court, rule

⁶ Unless otherwise indicated, all further references to rules are to State Bar Rules of Professional Conduct.

9.20(a)(4) by failing to file notices of his 90-day suspension in *Smith I* in several bankruptcy proceedings in which he was still counsel of record on May 16, 2012, when the Supreme Court filed its order in *Smith I* directing respondent to comply with rule 9.20. His willful actions resulted from his mistaken belief that he did not have to file the notices, as the bankruptcy court was already aware of the discipline imposed. Second, respondent stipulated to willfully violating his duty, under section 6068, subdivision (a), to obey the laws of this state and the United States, by engaging in the unauthorized practice of law during his 90-day suspension in *Smith I* in willful violation of, inter alia, section 6126, subdivision (b). Specifically, 11 days after he was suspended in *Smith I*, respondent prepared an answer for a client to file in propria persona and met with the client and explained the answer to the client. While his actions were not venal, and motivated by an effort to help his client, his actions were nonetheless willful. In aggravation, respondent had one prior record of discipline. In mitigation, respondent cooperated with OCTC and stipulated to his culpability.

Multiple Acts (Std. 1.5(b).)

Respondent's present misconduct evidences multiple acts of misconduct.

Mitigation

Respondent is required to prove each mitigating circumstance by clear and convincing evidence. (std. 1.6.) The record establishes one mitigating circumstance.

Candor/Cooperation with State Bar (Std. 1.6(e).)

Respondent is entitled to mitigation for his candor and cooperation with OCTC. Respondent entered into the May 18, 2015, partial stipulation of facts in which he effectively stipulates to his culpability.

Good Character (Std. 1.6(f).)

Respondent's good character evidence fails to establish, by clear and convincing evidence, that respondent possesses "extraordinary good character." Respondent failed to present competent evidence of his good character from a wide range of references in the legal and general communities who are aware of the full extent of his past and present misconduct. Respondent proffered the testimony of one very credible witness (i.e., Joyce Pearson), but evidence from one witness falls woefully short of the requisite "wide range of references in the legal and general communities."

Recognition of Wrongdoing (Std. 1. 6(g).)

Respondent is not entitled to any mitigation for his professed acknowledgement of wrongdoing. Respondent claims to realize the seriousness of his misconduct in failing to strictly comply with the Supreme Court's May 16, 2012, disciplinary order in *Smith I*. This court, however, is unable to find respondent's professed acknowledgement credible in light of the facts (1) that respondent was disciplined in *Smith II* for failing to comply with the provisions in the Supreme Court's May 16, 2012, order in *Smith I* directing respondent to comply with rule 9.20 and suspending respondent from the practice of law for 90 days and (2) that respondent was given mitigation in *Smith II* because he acknowledged or "admitted his wrongdoing." In fact, respondent's failure to timely file a posttrial brief in this proceeding suggests that respondent still fails to appreciate his duty to fully and timely participate in State Bar Court disciplinary proceedings.

Discussion

The purpose of State Bar Court disciplinary proceedings 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 the highest possible professional standards for attorneys. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016,

1025.) In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1085, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) Second, the court looks to decisional law for further guidance. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310-1311; *In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580.)

“The imposition of attorney discipline does not issue from a fixed formula but from a balanced consideration of all relevant factors, including aggravating and mitigating circumstances.” (*Rodgers v. State Bar* (1989) 48 Cal.3d 300, 316.) Furthermore, it is well-established that even purported mandatory standards can be tempered by “considerations peculiar to the offense and the offender.” (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-221; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994).

The applicable standard for respondent’s willful violations of section 6068, subdivision (k) is standard 2.14, which provides: “Actual suspension is the presumed sanction for failing to comply with a condition of discipline. The degree of sanction depends on the nature of the condition violated and the member’s unwillingness or inability to comply with disciplinary orders.”

Also relevant is standard 1.8(b), which provides:

If a member has two or more prior records of discipline, disbarment is appropriate in the following circumstances, unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current misconduct:

1. Actual suspension was ordered in any one of the prior disciplinary matters;
2. The prior disciplinary matters coupled with the current record 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.

Case law has established that, when applying a standard that provides for a specific level of discipline based on an attorney's prior record or records of discipline, such as standard 1.8(b), the State Bar Court does not blindly "treat all priors as having equal weight, but [must] consider the facts underlying the various proceedings in arriving at the appropriate discipline." (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 506-507; *Arm v. State Bar* (1990) 50 Cal.3d 763, 778-779.) Moreover, "[t]he imposition of attorney discipline does not issue from a fixed formula but from a balanced consideration of all relevant factors, including aggravating and mitigating circumstances." (*Rodgers v. State Bar* (1989) 48 Cal.3d 300, 316.). This principle precludes the State Bar Court from recommending that an attorney be disbarred based solely on the number of times he or she has been disciplined. (Cf. *In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136 [to fulfill "purposes of lawyer discipline, [the State Bar Court] must examine the nature and chronology of respondent's record of discipline"].)

The court concludes that standard 1.8(b) is to be applied in the same manner as former standard 1.7(b). Former standard 1.7(b) was applied "with due regard to the nature and extent of the respondent's prior records. [Citation.]" (*In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 704.) In that regard, when former standard 1.7(b) was applied, significant weight was placed "on whether or not there is a 'common thread' among the various prior disciplinary proceedings or a 'habitual course of conduct' which justifies disbarment. [Citation.]" (*In the Matter of Shalant* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 829, 841.)

Even though there is a common thread between the present proceeding and *Smith II* because the misconduct in both of the proceedings involves respondent's failure to comply with the Supreme Court's May 16, 2012, order in *Smith I*, the court does not find the present misconduct sufficiently egregious to recommend disbarment. (Cf. *Conroy v. State Bar, supra*, 53 Cal.3d at pp. 506-507 [disbarment under former std. 1.7(b) was not mandatory even when

compelling mitigating circumstances did not clearly predominate].) Nonetheless, under standard 2.14, the court finds that significant discipline, including a lengthy period of actual suspension, is necessary to fulfill the purposes of attorney discipline.

In this case, respondent's most serious violation of section 6068, subdivision (k) is based on respondent's failure to make any restitution payments whatsoever to his former client or CSF until April 2015. Restitution in attorney discipline cases is extremely important. "Requiring restitution serves the rehabilitative and public protection goals of disciplinary probation by forcing attorneys to confront in concrete terms the consequences of the attorney's misconduct." (*In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 312, citing *Brookman v. State Bar* (1988) 46 Cal.3d 1004, 1009 and *In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 537.)

The willful violation of a condition of probation often calls for actual suspension as a reflection of the seriousness with which compliance with probationary duties is held. The court finds *Potack v. State Bar* (1991) 54 Cal.3d 132 to be instructive on the issue of discipline even though it is a probation violation proceeding. Potack's probation was revoked, and he was actually suspended from practice for two years because he filed a probation report 41 days late, and because he failed to correct certain deficiencies in that report after being given ample opportunity to do so. No mitigating circumstances existed in *Potack*. In aggravation, Potack had one prior record of discipline and defaulted in the State Bar Court. Even though Potack defaulted and respondent is participating in this proceeding, respondent committed more misconduct than Potack, and he has two prior records of discipline, while Potack had only one.

The Supreme Court rejected Potack's argument that the recommended two-year suspension was excessive, finding that Potack's "failure to abide by the terms and conditions of

his probation is a serious violation” warranting the recommended two-year suspension. (*Potack v. State Bar, supra*, 54 Cal.3d at p. 139.)

The court weighs heavily the serious nature and extent of respondent’s two prior records of discipline. Respondent’s prior and present misconduct suggest that respondent is either unwilling or unable to comply with his ethical responsibilities. Mindful of the goals of attorney discipline, the court will recommend that respondent be placed on three years’ stayed suspension and three years’ probation on conditions, including a two-year suspension that will continue until he proves his rehabilitation, fitness to practice, and learning and ability in the law. (*Hill v. State Bar* (1935) 2 Cal.2d 622, 625 [“Discipline of an attorney is not merely punitive in character but is designed to protect the public, the courts, and the legal profession; in short, to reform the offender or else remove him from practice.”].) Cases that recommend a shorter period of suspension involve less serious probation violations, significant mitigation, or not as serious a prior record of discipline as the present case.

Finally, the court emphasizes to respondent that failing to abide by probation terms and conditions is serious misconduct (*Potack v. State Bar, supra*, 54 Cal.3d at p. 139), even when the violation is technical. Should respondent fail to strictly comply with the conditions of the three-year probation that the court recommends in this proceeding, he could be required to serve the entire three-year period of stayed suspension that the court also now recommends, or he could even be disbarred.

Recommendations

Discipline

The court recommends that respondent **STEVEN EARL SMITH, JR.**, be suspended from the practice of law in the State of California for three years, that execution of the three-year

suspension be stayed, and that he be placed on probation for three years⁷ on the following conditions:

1. Respondent Steven Earl Smith, Jr., is suspended from the practice of law for a minimum of the first two years of probation, and he will remain suspended until he provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)
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 the Supreme Court order in this matter, 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. Respondent must promptly meet with the probation deputy as directed and upon request.
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. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's 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.
6. Within one year after the effective date of the Supreme Court order in this proceeding, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School and passage of the test given at the end of that session.
7. 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 The probation period will commence on the effective date of the Supreme Court order in this matter. (See Cal. Rules of Court, rule 9.18.)

8. At the expiration of the period of probation, if respondent has complied with all conditions of probation, the three-year stayed suspension will be satisfied and that suspension will be terminated.

Professional Responsibility Examination

The court further recommends that respondent be ordered to take and pass the Multistate Professional Responsibility Examination during the period of his suspension and to provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

California Rules of Court, Rule 9.20

The court further recommends 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

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.

Dated: November 18, 2015.



W. KEARSE MCGILL
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on November 19, 2015, I deposited a true copy of the following document(s):

DECISION

in a sealed envelope for collection and mailing on that date as follows:

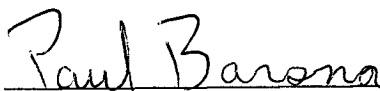
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

STEVEN E. SMITH JR
STEVEN E. SMITH, ATTORNEY AT LAW
24011 VENTURA BLVD STE 201
CALABASAS, CA 91302

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

RONALD K. BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 19, 2015.



Paul Barona
Case Administrator
State Bar Court